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STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
AGENDA BRIEFING

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A P P E A R A N C E S

BOARD MEMBERS PRESENT:

LINDA MOULTON-PATTERSON, Chair

DAN EATON

STEVEN R. JONES

JOSE MEDINA

MICHAEL PAPARIAN

DAVID A. ROBERTI

STAFF PRESENT:

MARK LEARY, Executive Director

KATHRYN TOBIAS, Chief Legal Counsel

ELLIOT BLOCK, Legal Counsel

STEVE LEVINE, Legal Counsel

DEBORAH MCKEE, Board Administrative Assistant

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1 P R O C E E D I N G S

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3 (Thereupon the review of the monthly Board
4 meeting agenda was held.)

5 BOARD CHAIR MOULTON-PATTERSON: Number two is
6 discussion and presentation of closed, illegal, and
7 abandoned, CIA site programs, site program.

8 MS. NAUMAN: Good afternoon, Board members.
9 Julie Nauman, Permitting and Enforcement Division.

10 I'll lead us off with a little bit of
11 introduction, and then I'll turn it over to Scott. We
12 wanted to bring this item forward to you to give you kind
13 of an overview of the implementation of the closed,
14 illegal, and abandoned site program which is relatively
15 new to the Board and was established through the budget
16 process a couple of years ago, and it has some very
17 important linkages to the 2136 cleanup program.

18 And so this afternoon we're going to go through
19 with the kind of the purpose of the program, steps we've
20 taken to implement the program, give you a sense of what
21 we're seeing as the universe of closed, illegal, and
22 abandoned sites. How subsets stack up within that; for
23 instance, burn dump sites, and then other closed and
24 illegal sites that you sometimes see in the 2136 program.

25 We'll walk through some case examples with you

1 and then give you an opportunity to ask some questions.

2 Within the item itself we've also developed a
3 rather extensive chart that is really attachment two that
4 kind of shows you how we're going through and trying to
5 systematically identify the closed, illegal, and
6 abandoned sites that form the universe of our workload.
7 And through that, then try to prioritize those sites.

8 Our effort is to identify sites, move them
9 through the enforcement process by assisting local
10 governments and the LEAs technically with enforcement on
11 these sites so that we can really narrow down the sites
12 for cleanup.

13 So the intent in developing it was to give us an
14 opportunity to load some resources, to really identify
15 the universe out there, and then establishing priorities
16 for enforcement, and then ultimately moving into cleanup.

17 So with that introduction, let me turn it over
18 to Scott Walker.

19 MR. WALKER: Thank you. Scott Walker,
20 Permitting and Enforcement Division.

21 As conveyed by Julie, the purpose of this
22 program is to ensure protection of public health and
23 safety and the environment at closed, illegal, and
24 abandoned disposal sites, solid waste disposal sites.

25 One thing I want to point out is we use the

1 acronym CIA sites, but I wanted to ensure the Board that
2 fortunately this doesn't mean we have to coordinate this
3 with the U.S. Central Intelligence Agency, we have enough
4 problem agencies to deal with, so I just wanted to make
5 that clear.

6 (LAUGHTER.)

7 MR. WALKER: A lame attempt at humor here, I'm
8 sorry.

9 BOARD MEMBER PAPARIAN: Keep it up, keep going.

10 MR. WALKER: Just checking. Again, this
11 presentation will cover an overview of CIA sites, both
12 universal sites; a little bit about enforcement authority
13 issues and what we're doing about that; prioritization of
14 sites for action; how we're implementing the program,
15 including a recent case example; and also how this
16 program coordinates with the Board's cleanup program,
17 cleanup programs, primarily the AB 2136 cleanup program.

18 And then we will conclude with a summary of the
19 known priority sites and those with potential for near
20 future 2136 consideration.

21 Basically there's an overwhelming, quite an
22 overwhelming number of complexity of sites in the solid
23 waste information system which is our SWIS database.
24 There's actually 2,800 sites, and one of the items says
25 2,500. But within the responsibility of this program

1 there's about 2,800 sites, and this is over half of the
2 total number of solid waste sites.

3 The remainder of the sites are primarily the
4 facilities and tire and solid waste facilities.

5 CIA sites are basically anything other than an
6 active facility. And of that, you know, the three basic
7 definitions of closed sites are essentially a solid waste
8 site that has ceased accepting waste and closed, of
9 course, in accordance with applicable requirements in
10 effect at the time. The closed sites never had any
11 requirements, newer sites have to go through the closure
12 process until they're determined closed.

13 Illegal sites are any unauthorized disposal to
14 the extent that cleanup is required, the activity is not
15 permitted, exempt, or excluded.

16 And finally abandoned sites, which are pretty
17 rare, not a lot designated as abandoned sites where no
18 responsible party can be identified or located.

19 (Board Member Eaton arrived.)

20 MR. WALKER: And there's a lot of challenges.
21 And I just wanted to convey to the Board it's site
22 specific, and the strategies are we end up having to use
23 a lot of different avenues to try to come up with the
24 best scenario, including local codes and ordinances.
25 There's a lot of complexity and different situations out

1 there.

2 And also the authority, one of the things is
3 there's a lot of problems with the authority in terms of
4 holes where parties may not be able to get at the real
5 culpable parties such as haulers of the waste, past
6 owners and operators; but the legislative concept to
7 implement the audit report recommendation on streamlining
8 civil penalties, if this is implemented, it will address
9 many of these authority issues.

10 Now that -- first, closed sites. In this
11 category, essentially closed or closing, there's about
12 2,600 sites.

13 And to kind of run through where we are on this,
14 we've got about a thousand of these pre-regulation
15 landfills. These are those that really there's no
16 regulations in effect at the time.

17 Also in here is the Department of Defense sites.

18 This is, as a separate program, there's DTSC
19 lead, a large number of these sites.

20 Inert and exempt and closed exempt sites fall
21 under this category.

22 And finally, I have this other category, because
23 basically when, in the SWIS system if there's a listing
24 or site and nobody can figure out where the heck it can
25 go, it falls in here. And so we have to figure out where

1 it is and what to do about it. So that's one area where
2 we've had some difficulty.

3 There's nine hundred archived sites, and these
4 mean that there's no further action; the LEA has
5 requested this, either the site can't be found, it's a
6 duplicate, or it's been completely removed, and so
7 that's, basically those are no further action types
8 sites.

9 We've gone through a lot of independent burn
10 dumps, and we've got about five hundred of these burn
11 dumb, pre-regulation burn dumps, in the context of the
12 burn dump working group.

13 And finally, there's about 200 of closed or
14 closing sites that are essentially subject to the full
15 27, Title 27 closure, post closure plan requirements for
16 a special case.

17 BOARD MEMBER MEDINA: On the burn dumps, do you
18 know whether the majority are in urban sites or in rural
19 sites?

20 MR. WALKER: Well burn dumps, I think there are
21 a lot of burn dump sites pretty much spread throughout
22 the state. In certain areas in Southern California we
23 found, like in San Diego, a relatively urban area, there
24 is a fairly high concentration of burn dump sites.

25 However, when you look at places like Los

1 Angeles and Orange County, there are fewer that have been
2 identified. It may be because the sites were shut down
3 burning at an earlier time. Also, we may not have found
4 it yet.

5 I know that we know of, in the case of Los
6 Angeles there are some burn dumps along the L.A. River in
7 the early 1900's that were paved over and completely
8 removed through channelization, so it varies and it's
9 complicated.

10 MS. NAUMAN: If I can just jump in here a little
11 bit. Burn dump, while the number five hundred looks like
12 a very large number; through the working group that Scott
13 made reference to, and this is really a working group
14 that is composed of the Waste Board, the Water Board,
15 DTSC agency, and we've been meeting for about a year now
16 trying to come up with a more streamlined process to
17 coordinate the efforts of all of the entities involved
18 with burn dumps to work more effectively with local
19 governments, and we've taken that number five hundred and
20 kind of put it through a couple of filters where we've
21 looked at whether there are sensitive land uses
22 surrounding it which would cause us to have greater
23 concern about it. And I don't remember the absolute
24 numbers, but I think we're down to about 57 sites that
25 are --

1 MR. WALKER: There's about 77 sites that are in
2 what's called sensitive land use, it's not necessarily
3 urban but it's essentially urban, residential, hospital,
4 such as that.

5 MS. NAUMAN: And those are the DTSC, and as we
6 get further into the presentation here this afternoon
7 we'll be looking at the prioritization listing and start
8 to see how those rise to the A-1 category.

9 So those are the ones that the working group is
10 really focusing on, so it helps to put that number in
11 perspective as to how much work we really have ahead of
12 us.

13 MR. WALKER: And we do list in the item, in
14 attachment three it includes all the priority, the high
15 priority burn dump sites.

16 And with that I want to just show you a couple
17 slides and pictures just to give you an idea of closed
18 landfills, the issues that's pretty unique.

19 We've got, you know, exposed waste issues,
20 drainage, erosion, gas and leachate, post closure land
21 use, unauthorized post closure land use is also a major
22 area of scrutiny, and site security.

23 In urban areas I think, like in Los Angeles, you
24 will see a lot, there's a lot of activity with regard to
25 post closure land use, brown fields, and those sites are

1 pretty well regulated. But in some of the rural areas
2 you see other types of problems with these type of sites.

3 Here's a burn dump, I just want to give you kind
4 of what it looks like. The principal issue here is
5 exposed ash which has heavy metals that pose a
6 significant health hazard with human contact.

7 And typically there are, you know, pre-1972 very
8 old sites, but encroaching development we frequently see
9 situations where there's public contact.

10 Now we'll get into the illegal disposal sites.
11 Basically there's about 200 of these sites in the SWIS
12 records. Most of these have already been cleaned up in
13 the process. We've cleaned up about 110 of these sites
14 with the 2136 program.

15 There's also about 200 new sites not yet listed,
16 and many of these are in the various stages of cleanup.

17 There's also many others that are really not
18 formally identified yet, these are relatively small
19 nuisance sites that we are starting to get into now.

20 And then also it's important to note that
21 illegal disposal sites pop up from time to time,
22 sometimes they pop up really big like in Cajon, but they
23 do, you know, sort of come about. And let me just go
24 through and kind of give you an idea of the range and
25 types of illegal disposal sites.

1 This is a legacy dump site, this is the
2 Wheitchpec site at tribal lands. And this is an example
3 of a big dump that's been going on for years and years,
4 really old.

5 Most, pretty much all of these have been cleaned
6 up, most of 'em through 2136 program, but we pretty much
7 got a handle on most of these huge legacy dump sites.

8 This is another category which we call sham
9 composting facility, this is the Pacific Southwest Farm
10 sites, where about 140,000 cubic yards of organic
11 residuals with a lot of residual trash was taken to a
12 site for potential vermi composting which was exempt, and
13 this was a major, major, major problem site. And
14 eventually this site was cleaned up by the responsible
15 parties. Fortunately we didn't have to deal with the
16 cleanup programs, although with our, essentially the
17 closed, illegal, abandoned site assistance, we provided
18 both the responsible parties and the LEAs, we figured out
19 a very cost effective cleanup alternative that we helped
20 them put together, and eventually helped a settlement
21 made.

22 They did clean that up, but that's an example of
23 a sham composting facility. Not really a lot of these
24 out there fortunately.

25 Another site was the Disney Tiajuana river site

1 that the Board also cleaned up with 2136. And these
2 types of situations have popped up from time to time,
3 they're very serious, and fortunately we don't have, you
4 know, a major problem with this right now, but we're
5 always cognizant of it with the CIA program.

6 This is what we call kind of the sham inert
7 site, this is Cajon Pass illegal disposal site. These
8 are really, really serious problems.

9 Cajon is just about cleaned up now, and we'll be
10 reporting back to the Board on it. And the Board's
11 leveraged cleanup funds to get about a \$3.1 million
12 cleanup done.

13 And this is where we've had, you know,
14 essentially an exempt type site where land clearing,
15 construction demolition debris has been illegally
16 disposed of in a highly environmentally sensitive area.
17 Very, very serious situation.

18 Other cases that we've been involved in, Mobile
19 Debris Box in San Francisco is a case, we ended up having
20 to clean up that with 2136.

21 An example of where we were able to do it
22 through the RP was Cutter Industries with Tulare County,
23 that was in Tulare County, a privately owned site that
24 was cleaned up by the RP fortunately.

25 Aggregate recycling is one being cleaned up by

1 the RP.

2 One active case we have now in this that the CIA
3 program is working on, it's in the enforcement phase,
4 it's called Bisso Brothers, and it's in Sonoma County. A
5 big, big site, and you'll probably be hearing more about
6 this in the future.

7 BOARD MEMBER JONES: Scott, what kind of
8 material is that Bisso Brothers? I'm sorry, I didn't
9 hear.

10 MR. WALKER: Bisso Brothers, there has been
11 construction demolition debris, supposedly inert
12 materials, there's evidence of putrescible waste; there's
13 a lot of it we don't know yet.

14 BOARD MEMBER JONES: Is this under the guise of
15 recycling center?

16 MR. WALKER: Well it's my understanding that
17 that site was, you know, back in the eighties, in the
18 early to mid-eighties started operating as kind of a sort
19 of recycling type operation and an inert fill where they
20 had pits near a river and they were filling up, it just
21 got out of hand, and it's been going on for a very long
22 time. In fact, there still is some, up until recently
23 there was still activity there.

24 And this comes to another area which is the
25 nuisance dumping type sites. And I wanted to point out

1 that this is an example, this is from the City of
2 Oakland. And this is an example of, well you look at
3 that and you think that well, you know, it's not really a
4 pollution issue.

5 But it's important to point out that what
6 happens with these situations is that you may have one
7 individual site that's not really a big huge problem,
8 it's a nuisance, it's offensive; but the problem is you
9 get these things popping up in multiple spots in a fairly
10 concentrated urban type area to the point where it's out
11 of control.

12 And they also tend to concentrate in sort of
13 environmental justice tribal and also tribal land
14 situations, so that aspect plays in.

15 Normally these types of cases refer directly to
16 the cleanup programs so we're working with the code
17 enforcement departments instead of LEAs.

18 Recently we've had a grant project with the City
19 of Oakland and the City of Pomona.

20 Right now we've got two areas where there's a
21 big problem; one is San Francisco and one is Sacramento,
22 and we may be seeing, you know, grant projects possibly
23 being requested.

24 And I think in the rural type settings you'll
25 see farm and ranch grant type sites, but also you see

1 situations that may warrant 2136 participation, whether
2 it's a city or a county in financial need, such as a City
3 of Clearlake where there's Board managed and multiple
4 usage sites concentrated in the area.

5 This gets into a big topic right now is the
6 trash concentrated from the storm water system. This is
7 a really big problem right now, and this just shows you
8 an example of what happens after a typical significant
9 storm event in the L.A. River or Ballona Creek where
10 thousands of cubic yards accumulate downstream. They
11 accumulate at outfall areas and then downstream in the
12 beaches and urban streams.

13 And this is a really, really big problem right
14 now as far as disposal sites in Southern California.

15 This just shows you an outlet situation. And
16 right in the outlet the accumulation of trash that
17 occurs, and it just flows right out into the ocean.

18 And this is another, this is not really easy to
19 see, but this is an example of a storm water related
20 trash problem that's pretty significant right now on the
21 border zone. What you have here, this is the Tiajuana
22 River, and there's a lot of trash that, on the Mexico
23 side which gets washed down into the Tiajuana River
24 valley, downstream into beaches, coastal areas, and along
25 the urban streams of the San Diego area.

1 And this is just after a pretty small event.

2 You can see there's a lot of trash spread out on the
3 floodplain there over a really wide area. And while one
4 small storm event doesn't really, it's really more of
5 just a nuisance situation, when you couple a whole season
6 of storm events you get thousands of cubic yards. I mean
7 this is on the order of three or four thousands of cubic
8 yards of trash makes its way into the estuary area.

9 And this is an example of a situation that the
10 illegal disposal site and storm water related type
11 situation that the CIA program is working on.

12 Site prioritization. Essentially we use the
13 screening method to determine which sites need cleanup.
14 Essentially it's, this system was approved by the Board
15 for the AB 2136 site cleanup program. It's based on
16 evaluation of state minimum standards.

17 We put a priority codes; priority A basically
18 means it needs cleanup, it's confirmed pollution or
19 nuisance.

20 Essentially what pollution is, pollution is
21 where solid waste has been released to air, water, or
22 land such that that air, water, or land is significantly
23 degraded or adversely affected.

24 Nuisance is essentially where the solid waste
25 has, is offensive or indecent, and it interferes with the

1 comfortable enjoyment of property and life. And so it's
2 a little bit, little bit different, pollution is much
3 more of a direct problem.

4 For instance like a burn dump, you have
5 hazardous levels of metals, public contact, kind of a
6 pollution situation.

7 Nuisance, if you have a small amount of trash,
8 that there's nothing there that's really a direct public
9 health hazard but it's offensive and somebody trips on it
10 they might hurt themselves, something like that.

11 And then Priority B is essentially where there's
12 a threat of pollution or nuisance. This basically means
13 that an investigation is needed. A priority B may end up
14 being an A or drop down to essentially lower priority,
15 which is C is essentially where the site needs to be
16 inspected and tracked, but minimal action is needed to
17 make sure that it's acceptable.

18 And it's possible conditions could change, storm
19 events, and that it might become more of a pollution or
20 nuisance problem.

21 And then finally the one, two, three, the number
22 is applied by giving, it gives the proximity to sensitive
23 receptors.

24 The CIA program, again this is a new program, it
25 really started last January, but the staffing was geared

1 up, you know, a few months later.

2 But the key element is really LEA guidance,
3 training, and technical assistance, because the LEA is
4 really the key in this program because they have the
5 direct role and responsibility on CIA sites in their
6 particular jurisdictions.

7 This program also provides site specific
8 investigation and also enforcement assistance. And then
9 also we provide technical assistance on site cleanups
10 that would be performed by RP's, responsible parties, in
11 the system to ensure that it gets done.

12 Another action is the CIA data in SWIS, to
13 maintain it. And clearly with 2,800 records of sites,
14 there's a tremendous amount of information there that
15 we'll need to update and maintain, and we're continuing
16 to chip away at that.

17 LEA program evaluation. LEAs have
18 responsibilities for CIA sites that we also will ensure
19 that they meet through this program.

20 And then finally is the CIA site responsibility
21 as the enforcement agency. When we are the enforcement
22 agency we are responsible for anything an LEA is
23 responsible for on a CIA site.

24 Another thing to point out is cross media, cross
25 media agency coordination. Many of these sites there's

1 multiple agencies involved, and that's a big, big part of
2 this program.

3 This just gives you a picture of kind of an
4 abbreviated flow chart. Three main phases; investigation
5 phase, enforcement phase, and cleanup phase.

6 Now in investigation we might find that cleanup
7 is not required. We also may find in certain
8 circumstances that there's no responsible party, or if we
9 have a responsible party that's very motivated to do what
10 they need to do then enforcement may not be necessary.

11 But normally this would proceed in a process of
12 investigation to enforcement and then cleanup, if
13 necessary, by a responsible party or through a referral
14 to the cleanup programs or some other cleanup program in
15 the state or federal government.

16 I think with this I'd like to just introduce
17 Abel Martinez, a staffer who is just going to give you a
18 little brief run-through of a case example of the CIA
19 program work on a particular case.

20 MR. MARTINEZ: Thanks, Scott. Abel Martinez
21 with the CIA program. Good afternoon.

22 The Newport Terrace Condominiums, also known as
23 the Newport Terrace Landfill number one. This is a
24 typical scenario that we've found in the Southern
25 California area. To be more specific, in the counties of

1 L.A. and San Diego.

2 Land for development in this area is not easy to
3 find, and so this has motivated some of the developers to
4 use the surface area on top of the landfills to develop
5 commercial and residential.

6 The problems attached to this specific
7 situations are mainly the differential settlement of the
8 foundation, but also the gas migration issue.

9 In the case of the Newport Terrace Landfill, a
10 residential development was established adjacent to the
11 landfill in 1972, and the problem related to this site is
12 found to be the gas migration and the possibility of the
13 gas migrating to the homes.

14 Landfill is mainly composed of gas methane which
15 is known to be an explosive gas, but it also contains
16 some organic compounds that happen to be a threat to the
17 public.

18 Our unit, at the request of the Orange County
19 LEA, performed a landfill gas investigation to determine
20 the appropriate remedial measures, if any, to protect the
21 public health, the safety, and the environment.

22 The CIA unit got involved in this project
23 January 9th, 2001, where a phase one investigation was
24 conducted to determine the history of the site. And also
25 we prepared a work plan to conduct a more intrusive

1 investigation of the landfill.

2 Finally, in April of 2001, after having
3 completed this work plan, we conducted a phase two where
4 we coordinated with different agencies.

5 The work plan was completed in two weeks, and we
6 run different tests for gas and soils. And as a result
7 of this investigation, it was determined that definitely
8 gas migration was occurring away from the landfill.

9 The existing gas collection system is not
10 functioning properly as designed.

11 Although gas migration is occurring at this
12 time, it isn't known what is the extent of the problem.

13 That precisely motivated our group to make use
14 of one of the best available technologies for monitoring
15 gas landfill.

16 And in June of 2001, we designed and coordinated
17 the installation of a continuous gas monitoring system
18 near the condominiums; which we will allow to determine
19 if gas migration is occurring into the homes; by sampling
20 and recording gas concentration at ten different
21 locations every hour 24 hours a day.

22 As of today the system hasn't detect any
23 migration of this gas into the homes.

24 On the other hand, the remedial measures that
25 our group is proposing in terms of bringing this landfill

1 into compliance in both the upgrading of the actual
2 exist, or existing gas collection system.

3 And finally to conclude, we have met with the
4 LEA and also the RP's to present these findings. As of
5 today they are working together to resolve the remaining
6 gas issue with the information that we provided.

7 And with this, I'll turn the floor over to Scott
8 to finish this presentation.

9 MS. NAUMAN: If I could just add onto this. In
10 fact, today at the CCDEH lunch, Patty Henshaw from Orange
11 County LEA made a point of stopping to thank me for the
12 hard work of Glenn Young, Abel, and Scott's whole group
13 with this particular site.

14 And I think this is one of the success stories
15 of this program because, you know, instead of us moving
16 quickly into, you know, a Board-managed cleanup or
17 heading in and, you know, doing this whole thing, we took
18 a very systematic approach, worked cooperatively with the
19 LEA, got the property owners involved, did the technical
20 work that we're so capable of doing, and through that
21 were able to encourage, if you will, the property owners
22 to work with the LEA.

23 And they have kind of taken hold of the site
24 now. You know, we came in, we did what we do best, and
25 then we're pulling back, and they're really taking over

1 for us. And that's kind of what we had hoped would
2 happen with this program is that we give some technical
3 assistance, and then responsible parties would take over.

4 So I think the staff is to be commended and I
5 wanted to pass along that comment and compliment from the
6 Orange County LEA.

7 BOARD CHAIR MOULTON-PATTERSON: Thank you,
8 Julie. We really appreciate it.

9 MR. WALKER: And then to kind of conclude with
10 the next two slides. The key thing in coordination with
11 the cleanup program; clearly this program, the CIA
12 program will allow us to better ensure that the whole
13 statewide universe of sites are properly screened through
14 to determine what sites are really a problem, and what
15 sites really warrant consideration under the cleanup
16 program. So this will really clearly help us better
17 ensure that.

18 But clearly with the CIA program, the preferred
19 outcome is cooperative cleanup by responsible parties.
20 However, if the responsible party cannot be identified or
21 is unable or unwilling to clean up a site where cleanup
22 is required, there is, in this program, the referral to
23 the AB 2136 or the farm and ranch cleanup programs to
24 deal with those cases.

25 One thing I wanted to point out to the Board

1 though is that the timeframe from referral of a site to
2 consideration by the Board will vary significantly;
3 depending upon the complexity of the site and the cleanup
4 project; the site specific enforcement process,
5 identification of RP's; compliance with other cleanup
6 program criteria; and also the initiative of agencies and
7 other potential, and potential applicants.

8 We may get a site that's pretty straightforward
9 like, you know, can't find the dumper, it's on a public
10 right-of-way, you know. You got a local government in
11 financial need, they're participating. That can go
12 straight to the cleanup program.

13 However, you get a case where there's a number
14 of responsible parties involved, there's a private
15 property owner, there may be, it's much different, more
16 difficult. You've got, you may need to spend much more
17 time in the enforcement process before that determination
18 can be made.

19 And hopefully with this program the RP's will be
20 able to do the cleanup and we won't have to bother with
21 it.

22 And then finally to give you a status of the
23 investigations. We've gone, we've done preliminary
24 screening through the entire SWIS list. Now there are
25 about three hundred listings that have had very little

1 information, not inspected. We suspect that many of
2 these will probably come off as not able to confirm the
3 existence or duplicates, things like that, but they're
4 still being, will be dealt with through the evaluation
5 process.

6 From that we have what serve as the priority A
7 sites, we have about 35 sites right now that we know of;
8 and then B priority is about 177 sites.

9 Right now we have a list in here of the possible
10 referrals and potential near future, 2136 projects. We
11 have about 22 A and 10 B site, priority sites. So again,
12 near future would probably be this fiscal year, next
13 fiscal year.

14 And again, he may or may not, you know, go that
15 route. They may get cleaned up by the RP's. Some of the
16 B sites might be determined not to be a threat. But
17 right now that's kind of the picture that we have that we
18 can give the Board.

19 And again, this will likely, this very likely
20 could change depending upon, you know, what we find in
21 some of these investigations.

22 Also, as new sites pop up we may have, you know,
23 a really bad site that comes to our attention right away.

24 The other thing to point out that the 2136
25 program, we've already cleaned up or we're in progress on

1 an additional 160 sites that were formerly a priority A.

2 That's to date the program has dealt with.

3 And then the farm and ranch program has done

4 about 85 site cleanups.

5 Burn dumps, again out of the five hundred,

6 approximately five hundred sites, there are about nine A

7 sites and about 39, I believe, B sites. There's an

8 additional forty sites, again fifty sites are in

9 sensitive land use areas, but most of those are not

10 really a problem based on our, based on the LEA's and the

11 Board's work. Ten of those might be a problem, we're

12 working with DTSC on.

13 So that gives you an idea of what we know now

14 regarding the burn dumps.

15 And with that we will conclude, and if the Board

16 has any questions we'd be happy to answer them.

17 BOARD CHAIR MOULTON-PATTERSON: Questions.

18 Dan.

19 BOARD MEMBER EATON: I've just got a couple of

20 quick questions. Out of the nine A sites on the burn

21 dumps, are those in the same position or are they

22 different than the one San Diego site where we actually

23 identified the responsible party?

24 My understanding is the City of San Diego is the

25 responsible party, at least in their documents, of the

1 nine sites.

2 MR. WALKER: Well I can tell you that there's,
3 there are nine sites. Some of them do have public owner
4 and operator, some are public owner operator, so one
5 could argue that they clearly are, you know, the clear
6 responsible party.

7 Others such as the 38th Street site which is
8 nearly complete, you know, other than, that's still on
9 the list, it's not signed off yet, but it should be
10 cleaned up, completely cleaned up pretty soon.

11 That has, as far as responsible party, other
12 than say the city having some public right-of-way,
13 there's no other responsible party.

14 The current site that we have an application for
15 matching grant, Quince Street site was privately owned
16 and operated. There is some evidence that in a, in a
17 report in the twenties there was some waste taken to that
18 site by city collection.

19 So that kind of gives you a rundown. There are
20 various, most burn dump sites will have some involvement
21 of local agencies, whether it's very small involvement as
22 maybe taking some waste there, up to actually operating
23 and owning an operation.

24 BOARD MEMBER EATON: And then with regard to
25 what I identify as what I call the shifting sand sites,

1 and those are really the storm drain sites because those
2 shift depending upon the activity that takes place and
3 the general locality, correct? Right? Weather could
4 cause those. You could have, you know, all kinds of
5 accumulation, or you could have accumulation that comes
6 from a particular non-point source that somehow gets into
7 the system and eventually winds its way down to a coastal
8 area or at least a retention area for lack of a better
9 word.

10 What I want to basically find out is what kind
11 of inquiry in coordination with the other agencies will
12 we have for identifying perhaps potential sources of
13 revenue for their participation?

14 Because some of those do get fees for the
15 activities that they are supposed to monitor with some of
16 their pollution, and that can help us with some of these
17 particular sites. Because that's part of the problem,
18 with the limited number of funds you have to have a way
19 to recharge them or reinvolve them. So it's very
20 difficult with shifting stands.

21 MR. WALKER: Right.

22 BOARD MEMBER EATON: Historically this program
23 was a historical kind of site where we had historical
24 kinds of areas, you know, which had taken place, whether
25 they be up in Redding, along the river, or other places.

1 Now we are entering into a whole different area, and we
2 need to have some mechanism set up so that the other
3 agencies that actually do a lot more of the investigative
4 work on different projects that affect that can help us
5 with what I call the shifting sands.

6 MR. WALKER: Yes, we do work directly with the
7 regional boards on the issues of illegal disposal sites
8 related to storm system. Now, you know, there are a
9 couple of different types. One is when people dump
10 actually in the storm drain system where there's illegal
11 dumping that occurs there, and then it gets concentrated
12 or until the storm event it's, it accumulates.

13 But then you do, we do see these situations now
14 where in certain specific areas, a large drainage area
15 will converge and concentrate the accumulated trash from
16 up in that drainage area.

17 Now those sites are, you know, fortunately, I
18 mean, we identified in the appendix, or in attachment
19 three what we know of right now, and we continue to work
20 with the Water Board on this.

21 One thing to keep in mind is that there is some,
22 there really, this problem, the only other real funding
23 source from projects is Prop. 12, Prop. 13 right now, and
24 many of these projects have not made the cut in that.
25 Some have, and fortunately, you know, they've, you'll see

1 some of the listed sites here are being cleaned up by the
2 local jurisdiction without our involvement. And those
3 did make the cut.

4 But the other ones are not making the cut.
5 There's other priority projects that are being done
6 throughout the state with Prop. 12 and Prop. 13.

7 BOARD MEMBER EATON: Thank you.

8 BOARD CHAIR MOULTON-PATTERSON: Steve.

9 BOARD MEMBER JONES: Thanks, Madam Chair. Scott
10 you may have answered this, you may have already gone
11 over this when I was out of the room for a minute, but is
12 there any tie-in to the old SWATS that were done back in
13 the late seventies I think it was? Because all of these
14 seem to have solid waste facility identifications with
15 most of them that are on the list. But the SWATS, both
16 the air and the water SWATS would have identified them
17 for planning purposes.

18 Do we coordinate to see if there are those
19 facilities that the LEAs picked all those up and they're
20 on some kind of a list, or is that pretty common?

21 MR. WALKER: Yeah, the SWAT actually was in the
22 mid-eighties. And the SWAT program was implemented by
23 the Water Board. And that program was both air SWATS and
24 water SWATS. And for a lot of these CIA sites, that
25 information is really the only information that we have,

1 so we have lists and we work with the Water Board on
2 that.

3 But most of those sites the Water Board
4 originally got and ranked based on contact from
5 environmental health departments.

6 BOARD MEMBER JONES: So did they do some cleanup
7 on those, or force people to clean those up back then?

8 MR. WALKER: Correct, yeah. The Water Board
9 followed up many of those sites that were determined to
10 be leaking through the SWAT, and actually cleaned those
11 up, they're closed sites, and not necessarily still a
12 problem, a lot of them. Although some SWAT sites may
13 have got an exemption or may still be a problem and have
14 not been cleaned up yet.

15 BOARD MEMBER JONES: So when you have a number
16 of a thousand that includes, because I think there were
17 5,000 sites identified in the water SWATs, weren't
18 there? Wasn't it some outrageous number like that
19 that -- cause we're looking at --

20 MR. WALKER: I know there was up to fourteen
21 ranks and, you know, there's nine regional boards, and
22 there's up to fourteen ranks, and I don't think there was
23 that many, but there were clearly hundreds. There were
24 several hundred probably listed, but only up to rank five
25 did SWATs get done.

1 BOARD MEMBER JONES: Had to do the work, right.

2 MR. WALKER: The other lower ranks --

3 BOARD MEMBER JONES: Were identified and didn't
4 have to do --

5 MR. WALKER: Right.

6 BOARD MEMBER JONES: Right. So I think that's
7 pretty impressive that we've got a thousand left out of
8 that number. Because I remember, it seems to me I
9 remember seeing a listing on that and it went on for
10 days, so thanks.

11 BOARD CHAIR MOULTON-PATTERSON: Any other
12 questions? Thank you very much, Scott.

13 We'll go on to our next item, item number three,
14 discussion of solid waste disposal and codisposal site
15 cleanup program policy.

16 MS. NAUMAN: Yes, this was an item that came out
17 of the discussion on the 38th Street site, and Mr. Eaton
18 at that time had asked us to look further into and report
19 back to the Board in a discussion item on the whole issue
20 of what are eligible costs under the 2136 program versus
21 what are ineligible costs under the 2136 program, and
22 what latitude the Board has with respect to approving
23 those costs for the utilization of 2136 funds.

24 So Wes Mindermann will be presenting the item.

25 MR. MINDERMAN: Good afternoon, Madam Chair,

1 members of the Board.

2 For the record again, my name is Wes Mindermann
3 with the Permitting and Enforcement Division.

4 The item before you this afternoon is an
5 information item on eligible and ineligible program costs
6 under the solid waste disposal site and codisposal site
7 cleanup program.

8 This item was requested by Board Member Eaton in
9 response to the Board's approval of the 38th Street and
10 Redwood Street burn dump, cleanup matching grant program
11 back in June of 2001.

12 This is only a discussion item this afternoon,
13 but based on the information presented, the Board could
14 direct staff to come back with more information or take
15 other actions.

16 I think when staff, and possibly the Board are
17 asking themselves what are eligible and ineligible costs
18 under the solid waste cleanup program, we really have to
19 refer to three sources.

20 The first thing we always do is refer back to
21 the statute, the original law for the program.

22 The second thing we refer to is the regulation.
23 And the actual regulation is Section 18904 of Title 14 of
24 the California Code of Regulations, which specifically
25 covers eligible and ineligible actions under the program.

1 And then we refer to previous Board actions.

2 Now, when we refer to the statute regarding
3 eligible and ineligible program costs, this is not a
4 typo. The statute is essentially silent on what is
5 eligible and ineligible costs.

6 It covers eligible and ineligible sites; it
7 covers the Board shall have a program and may adopt
8 regulations; and it covers the administrative side of the
9 program, Managing the trust fund, etcetera.

10 There is no language in there, however, that
11 says what is specifically eligible and ineligible costs.

12 So based on that we turn to the regulation. As
13 we look at Section 18904 I thought it would be helpful if
14 I referred back to the statement of reasons when that
15 regulation was adopted.

16 And essentially it said it was,
17 "To clarify remedial actions
18 that are eligible for consideration
19 from those remedial actions that are
20 ineligible under the solid waste
21 cleanup program."

22 It went a little bit further to say,
23 "The purpose of distinguishing
24 these actions is to ensure the
25 maximization -- maximini -- oh, boy,

1 here we go -- maximization of
2 available funds." The recorder can
3 refer to the screen to get that one.

4 Now when we look at Section 18904 there's
5 essentially five subsections. I don't want to go through
6 them all, but I'm, and these are specified in your agenda
7 item, but I thought I'd put them up on the board.

8 The first section is one that we as staff refer
9 to to make sure that we're meeting really what is the
10 intent here. And that is that anything that we do is, to
11 the extent practicable, is going to contribute to the
12 efficient performance and any anticipated long-term
13 remedial action with respect to the specific threat to
14 public health and safety and the environment addressed
15 under the program.

16 So that was put first, and that's primarily the
17 crux that was used to justify what was eligible and what
18 was ineligible. And then in areas that are gray what we
19 can look to give us guidance.

20 18904 gets really to the heart of the matter,
21 B. It essentially presents a laundry list of what types
22 of actions are eligible for funding under the program.

23 I don't want to go into it specifically, you can
24 see there's a number of different things, we've done them
25 all.

1 I do want to point out, though, some parts of
2 the code which says this is not a limited list, and it
3 says, and I've emphasized this here, it isn't emphasized
4 like that in the regulation, that,

5 "This list is not exhaustive and
6 shall not prevent the Board from
7 taking other necessary and
8 appropriate actions, and does not
9 create a duty on the Board to take
10 action at any particular time."

11 I've highlighted that just for your reference.
12 I think it's an important part of the code. It clearly
13 gives the Board the discretion to consider things that
14 are not specifically eligible or ineligible.

15 As we move to the third section we get a list of
16 what are ineligible actions. And again, I don't want to
17 go through them all, I just want to point out it says
18 these types of actions are on the list, but this is not a
19 limiting list. It includes some things as closure and
20 post closure maintenance services, improvements to
21 property, closure and post closure maintenance plans,
22 etcetera.

23 So when we're reviewing a project under a
24 program and we're looking down the proposed list of
25 tasks, we're looking at those tasks to see whether or not

1 the regulations allow it.

2 There's two other sections of Section 18904, D
3 and E. They're not really relevant to the discussion of
4 eligible and ineligible today. They cover specific
5 situations likes landfill fires at disposal sites, and
6 also emergency actions that were limited to technical
7 assistance. I just wanted to point it up there just so I
8 could get the entire section up there for the Board to
9 see.

10 Again, the exact language is outlined in your
11 agenda item.

12 So the question then becomes, "What do we do
13 with those sites that aren't specified in the code?" And
14 I don't know what to call them, I just called them not
15 specifically eligible or ineligible costs. I struggled
16 for days to come up with a really cool acronym --

17 BOARD CHAIR MOULTON-PATTERSON: Please don't, we
18 have enough.

19 MR. MINDERMAN: The MISAIK costs, for lack of a
20 better phrase -- I'm going to be interested to see how
21 that comes out on the transcript.

22 Anyway, how do we handle these costs? Well, we
23 note them on a project by project basis, and we look at
24 what has the Board done in the past, and what have we as
25 staff looked at and seen work in the past and recommended

1 approval for?

2 In the past the Board has approved community
3 relations, public education and outreach; those were key
4 components of the Wheitchpec illegal disposal site
5 cleanup, the Tuolumne County illegal disposal site
6 cleanup grant. They're key components of the big illegal
7 disposal site cleanup grants in Oakland and Pomona, and
8 they're critical to the long-term success of those
9 cleanups.

10 Now what has the Board disapproved on previous
11 actions? And these primarily relate to the Board's
12 action back in June on the 38th Street and Redwood Street
13 burn dump cleanup grant.

14 The Board, essentially the proponent of the
15 project, the City of San Diego, had proposed property
16 acquisition be paid for, deed restrictions, compensation
17 to landowners.

18 And I think at that time the Board was really
19 specific that they felt that these were ineligible costs
20 under the program, that they weren't specifically
21 allowed, they weren't specifically prohibited, but that
22 because there was the potential for these, and I don't
23 want to put words into the Board's mouth, but possibly
24 the potential for these costs to look as a gift of public
25 funds, or possibly to set a precedent where we could have

1 a run on the program by landowners seeking compensation
2 for loss in value on property; that they had chose to
3 disapprove specifically these types of proposed costs.

4 And that raises a good question. How are we
5 going to handle these types of situations in the future
6 as a program, especially when there is discretion in
7 there for the Board to consider these costs, and when we
8 are obviously getting a lot of requests for projects with
9 a lot of different portions of those projects being
10 proposed to be funded by the Board.

11 So I think based on that, based on that
12 experience, the program procedures now are that project
13 costs that are not specifically eligible or ineligible
14 are going to be noted for Board consideration on a case
15 by case basis; that they will be clearly spelled out in
16 the agenda item that these are, these are not
17 specifically allowed, they're not specifically
18 prohibited, and are subject to Board consideration and
19 approval on a cost by cost basis.

20 And we think, with the Board's approval, that
21 that's the acceptable way to go. We as staff will be
22 making a recommendation or may not be making a
23 recommendation depending on how clear we feel it falls
24 within the guidelines. But I think that's how the
25 program is going to go with the Board's direction here

1 from now on.

2 That concludes my presentation. I'd be happy to
3 answer any questions from the members or the Chair.

4 BOARD CHAIR MOULTON-PATTERSON: I don't know, I
5 can speak for myself and other Board members can speak up
6 if they disagree, but I think that's the approach we
7 want, case by case.

8 BOARD MEMBER MEDINA: I agree with you.

9 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
10 you. Thank you for that good presentation.

11 I think we'll take about a ten minute break and
12 we'll be back for our last three items.

13 (Thereupon there was a brief recess.)

14 BOARD CHAIR MOULTON-PATTERSON: And number four
15 we have discussion and update on conversion technology
16 activities.

17 Patty.

18 MS. WOHL: Good afternoon. This is, like the
19 title said, an opportunity to update you on all the hard
20 work that's been going on in regard to conversion
21 technology activities. Judy Friedman and Howard Levenson
22 and Fernando Berton will present.

23 BOARD CHAIR MOULTON-PATTERSON: Great, thank
24 you.

25 MS. FRIEDMAN: Thank you, Patty.

1 Good afternoon, Board members. This item is an
2 update of activities that we've been pursuing in the area
3 of conversion technologies.

4 As you know, in May the Board held a forum on
5 this subject, and by all the feedback we got was
6 successful.

7 What came out of the forum was a series of
8 recommendations that we've been really pursuing
9 aggressively since that point in terms of implementation.
10 And so often with day to day activities they don't really
11 come out as to what we're doing and how we're doing them
12 and how we're pursuing, and so mostly it's the big public
13 events are what people know about. So we thought it was
14 really important to come to the Board and give an update
15 on those day-to-day activities and all the different
16 things that we've been doing.

17 Basically if you like these kinds of updates
18 we'd be happy to come back on, you know, a regular basis
19 to provide that.

20 I'm going to turn the presentation over to
21 Fernando Berton and Howard Levenson soon, and I just
22 wanted to mention that along with myself, those two, and
23 Heidi Sanborn, technical advisor to the Chair, we make up
24 a small group of staff that have really been the, kind of
25 day-to-day work on this area.

1 We meet every two weeks and we kind of call
2 ourselves the conversion technology coalition, our
3 attempt at humor as well.

4 And so with that, I'm going to turn the
5 presentation over to Fernando.

6 MR. BERTON: Good afternoon, I was going to say
7 good morning but we got a little bit delayed.

8 I would like to start off with a little bit of
9 background and review some facts. As you know, there are
10 21 million tons of organic materials that are collected
11 annually.

12 Of that, six million tons are used for compost
13 mulch and alternative daily cover, with about 1.5 million
14 tons that are used for feedstock for biomass to energy
15 facilities.

16 So that leaves about fifteen million tons that
17 were still being landfilled, including about ten million
18 tons of wastepaper. So we have to ask ourselves how much
19 of that fifteen million tons could be used in conversion
20 technologies?

21 The other thing that we need to ask ourselves,
22 other issues to consider are the potential for other
23 materials going to landfills, such as rice, straw and
24 agricultural residue, waste from logging and wood
25 processing operations, and even feedstock from biomass

1 energy facilities, that may close in the future.

2 We've been exploring the use of technology such
3 as gasification. Gasification, of course, means
4 essentially cooking the feedstock at high temperatures.
5 There's no combustion of the feedstock, and a gas is
6 produced which is run through an internal combustion
7 engine or a microturbine to produce electricity.

8 Now these photographs are from a facility in
9 Australia called Bright Star which I'll be talking about
10 in a little bit more detail later on.

11 We've also been looking at anaerobic digestion.
12 What this does is this process uses bacteria in an
13 enclosed vessel to produce gases and a solid residue.
14 These gases, again, are run through an internal
15 combustion engine or a microturbine to produce
16 electricity. And the residues could be used as
17 fertilizer or as feedstock, compost operations.

18 Also with hydrolysis we've been looking at --
19 well, we've been looking at hydrolysis. What this is is
20 the chemical breakdown of the feedstocks into the
21 sugars. Now these sugars are then fermented to make
22 products such as ethanol or citric acid, and you can use
23 either, you can, for hydrolysis you can put this
24 feedstock either through an acid medium or through a,
25 using enzymes.

1 Now I've used the word feedstock quite a bit.
2 So what I mean by feedstock, I'm referring mostly to
3 cellulose based material; plant matter for that matter;
4 wood and yard trimmings, low grade paper for which
5 there's no market; again agricultural and forest residue;
6 and even some plastics from which there's certain
7 technologies that could use that feedstock.

8 Now each technology does have its own
9 characteristic needs for feedstock. And the question is,
10 what kind of feedstock or what mix of feedstock is best
11 for any certain kind of technology?

12 Now, there are a number of benefits to using
13 conversion technologies, one of them, of course, is
14 getting beyond fifty percent. And obviously the
15 production of energy, fuel and other industrial products
16 is very beneficial.

17 Now qualitatively we believe that there's a
18 reduced environmental impact in using conversion
19 technologies, but we would need to quantify that by using
20 life cycle analyses and having operating plants in
21 California, or visiting those operating plants outside of
22 California to confirm those, that assumption.

23 We also believe that there's, that it's
24 beneficial to co-locate these conversion facilities at
25 existing MRF's, because you can use the existing solid

1 waste infrastructure, and also you ensure that all
2 recyclable materials are pulled out.

3 In addition, there may be some siting impacts
4 that could be reduced.

5 There are three commercial facilities that use
6 solid waste as feedstock. There is the Bright Star
7 gasification facility in Australia; Canadian Compost,
8 Incorporated near Ontario, Canada; and Masada, a
9 hydrolysis facility in New York that's under
10 construction.

11 Specifically with Bright Star, they're in
12 Woolagong, Australia, and they use post recycled solid
13 waste. It began operating in early 2001, and it's
14 designed to take about 75,000 tons per year and produce
15 ten megawatts of energy. And it's permitted by the New
16 South Wales EPA which is equivalent to a state EPA.

17 A facility in Ontario, actually I happened to be
18 able to go visit this because I was on vacation in Canada
19 at the time and it was only 25 miles away from where I
20 was at, and it was quite, it was quite interesting.

21 They use mixed solid waste that is then
22 separated. The reason they take mixed solid waste is
23 that that's the way it's received. And Newmarket, the
24 town, does not have any sort of source separated type
25 programs.

1 This company, Canadian Compost, Incorporated, is
2 also going to be building a facility in Toronto which
3 will be taking source separated materials. So Toronto is
4 going to be finally instituting a curbside program. So
5 all of the solid waste will be going to this, to an
6 anaerobic digestion facility.

7 At any rate, the facility in Newmarket is
8 designed to take 150,000 tons a year and produce five
9 megawatts, and then the residue is sent to a facility for
10 composting.

11 The facility in New York, Masada, is in
12 Middletown, New York, and will use post recycled solid
13 waste and biosolids. And again, it's under construction.

14 And this will take 200 tons per year, and
15 produce nine million gallons of ethanol, as well as
16 gypsum for which they already have a market for.

17 Now in California, of course, we have none,
18 which is one of the reasons that we're here.

19 And with that, Howard will carry the rest of
20 this and talk about what we're, what we've done so far
21 and what we hope to do.

22 MR. LEVENSON: Thanks, Fernando. And notice
23 that Fernando has adroitly set up a trip to Australia for
24 whoever's interested.

25 I think, as you know, the Board sponsored a

1 major forum last May in Sacramento on conversion
2 technologies. And we had, ended up having about 160
3 participants over two days; and many, we had forty staff
4 people from throughout the Board that helped us put that
5 on. So it was quite an endeavor, and a lot of Board
6 offices were involved and participated.

7 The objectives of that were to just basically
8 get a firsthand understanding of what the status of these
9 technologies is, what people think about them, and to
10 develop some initial recommendations.

11 Out of that conference the participants
12 identified eight issues and barriers which are talked
13 about a little bit more on the agenda item. But lack of
14 leadership, some statutory constraints, questions about
15 cost and feedstock access, questions about regulatory
16 issues, and a variety of related issues.

17 We brought that information to the Board in late
18 May, at your late May Board meeting, and the Board
19 directed us to work in five areas, and that's what I'll
20 spend the rest of the talk just letting you know what
21 we're doing in these areas.

22 The Board directed us to look, to discuss more,
23 engage in more discussions with other state agencies
24 about conversion technologies and related biomass issues,
25 to begin planning some follow-up workshops and symposia,

1 to see where we can leverage other state and federal
2 funding sources.

3 The Board also asked us to develop proposals
4 related to small scale grants, R and D grants, and
5 technology grants, and life cycle analysis, which
6 Fernando just mentioned the need for, and finally to
7 assist project applicants in the permit process.

8 A second Board action related to conversion
9 technologies occurred in October where, as part of the
10 IWMA Consultive and Professional Services Contracts, you
11 approved \$75,000 for follow-up activities for workshops
12 and technology evaluations, and we are developing scopes
13 of work on that and will get back to you in the next
14 month or two with those proposals.

15 And of course, in November the Board adopted the
16 strategic plan. And there are a number of places
17 throughout the strategic plan that either directly
18 mention conversion technologies or certainly allude to
19 them.

20 And we feel that these technologies if they
21 could be sited in California in an economically feasible
22 framework can be a major tool in moving towards zero
23 waste.

24 Without going through the goals and objectives
25 directly, there are a lot of references to

1 environmentally preferable technologies, promoting new
2 technologies, and looking at alternative technologies
3 that result in electricity and other kinds of products.
4 So it's a direct fit with the strategic plan.

5 In terms of what we've been doing since the May
6 items, the May item. We have made, in the area of
7 outreach and workshops we have made a number of
8 presentations to the Regional Council for Rural Counties,
9 the Western Region SWANA conference which is down in San
10 Luis Obispo, the League of Cities Environmental Policy
11 Committee, the Southern California Association of
12 Governments. We had a session at the recent LEA
13 conference at Grand Le Bakken, and we have met with a
14 variety of other groups.

15 We also surveyed through the League and RCRC and
16 CSAC eighty local governments and a separate survey of
17 twenty vendors, these are the responses that we got, just
18 to make sure that we were developing activities that
19 would meet their informational needs.

20 In terms of upcoming outreach events, there are
21 a few that I'd like to highlight and there will be one at
22 the very end about a January workshop.

23 But we are working with the California Resource
24 Recovery Association, CRRA, to have a session on
25 conversion technologies kind of from the environmental

1 standpoint; what are the costs and benefits, life cycle
2 costs and benefits related to air emissions and water
3 quality and things like that. Working with them to have
4 a session at the July, 2002 conference which will be in
5 Oakland.

6 And perhaps bringing back David Morris who some
7 of you heard speak at the May forum about the
8 carbohydrate economy, moving away from a fossil fuel
9 based economy; a dynamic speaker that we think would be
10 great for CRRRA, so we initiated discussions with them in
11 that area.

12 I also have talked to SWANA, the national SWANA
13 Conference, annual convention would be in Long Beach in
14 October of 2002, so it's a great opportunity for us to
15 piggyback with the conference.

16 We've talked to SWANA and they are very
17 interested in having some kind of workshop at the
18 conference on conversion technologies, and having a
19 vendor trade show, probably as part of their overall
20 exhibits, where we would bring in perhaps five to ten
21 different vendors to exhibit at the conference, and get
22 them to interact with local officials and solid waste
23 management folks.

24 I think one of the earlier agenda items that's
25 actually on the real Board agenda for consideration is

1 the scopes of work for the RMDZ investment forums.

2 And we are working with the RMDZ staff to
3 include conversion technologies as part of those forums.
4 So that's, those are not yet, there are no dates yet, so
5 it's to be determined.

6 And then I wanted to flag, just for your
7 interest if you want to go to this, there is a major
8 conference on ethanol that will be held in San Diego at
9 the end of February, and I think over into early March,
10 put on by the Renewable Fuels Association.

11 Of course ethanol, if you saw the Dan Walters
12 article in the Bee a couple of days ago, ethanol is
13 highly politicized and there are many things that are out
14 of our control; but since hydrolysis is a technology that
15 can yield ethanol, we are watching the political
16 situation, and we are looking to see if there are
17 opportunities to develop in-state ethanol capacity.

18 In the area of interagency coordination, we have
19 continued to talk with a number of different state
20 agencies listed here, the Energy Commission particularly
21 because it has a lot of funding available from AB 1890
22 and followup legislation related to electricity
23 deregulation.

24 Most of that funding flows through what's called
25 the Public Interest Energy Research Program, the acronym

1 for that is PIER, P-I-E-R.

2 And there are hundreds of millions of dollars
3 available in that program for various energy-related
4 activities. There is a chunk of that that is devoted to
5 renewable energy, and there has been some funding from
6 CEC for solar and geothermal and wind technologies.

7 To date there's been nothing for the kinds of
8 technologies that we're interested in, and certainly none
9 that use solid waste. So we're hoping, that's a
10 competitive process, and what we've been able to do is
11 put project components in contact with CEC and get them
12 into that pipeline, but nothing yet.

13 We've spoken with the Governor's Office of
14 Planning and Research, particularly Dr. Woody Clark, who
15 is the Governor's, one of the Governor's senior energy
16 advisors, who has put on a series of renewable energy
17 forums in this room or the next room over the last few
18 months. And we have talked to him about having some
19 forums in the future.

20 Talked to many of these other agencies. We have
21 just met with the U.S. Forest Service. And it turns out,
22 and I just learned this last week, that the Forest
23 Service is sponsoring a project up in the Hoopa
24 Reservation in Humboldt or is it Trinity? Humboldt
25 Trinity area for a portable system that would gasify

1 forest residues, put 'em in a gasification system, take
2 the gas and run it through a microturbine, and then
3 generate electricity.

4 So we are setting up a meeting with them in
5 early January to find out more about that project and see
6 if they'd be interested in looking at other feedstocks;
7 for example, residues from nut processing factories which
8 are piling up and nobody knows what to do with. Or some
9 of the oaks on the coast that are being infested with
10 Sudden Oak Death disease, what do we do with those
11 materials when they die to try and keep them from coming
12 into the landfills. So there may be some possibilities
13 there.

14 And we've talked with the U.S. Department of
15 Energy and the National Renewable Energy Laboratory and
16 we may be able to take a trip out there in the spring
17 with Chairman Moulton-Patterson at NREL's invitation, so
18 we're hoping to coordinate that.

19 Kind of mentioned some of the funding that the
20 Board, looking for leveraging money; we have put together
21 a proposal for additional funding for R and D grants that
22 would look at what feedstocks fit which technologies, for
23 life cycle analyses, and that's going through the typical
24 administrative channels through agency office.

25 We have talked again, as I said, to the Energy

1 Commission and the U.S. Department of Energy, their
2 funding opportunities. And there it's more a question of
3 linking up specific projects that are ready to go for
4 funding into their program. So we keep tabs on that.

5 And then I already mentioned the Board contract
6 dollars that you approved just a few weeks ago.

7 Another area that the Board wanted us to do more
8 work on is to assist project proponents in getting
9 through the permitting assistance.

10 We have had discussions with a number of
11 different projects, some are further along than others.
12 A few projects want dollars directly from the state,
13 multimillion dollar grants, but most of them want permit
14 assistance.

15 For the ones that want money, we have tried to
16 tell 'em we don't have 25 or \$50 million here available
17 at the Board and try to steer 'em into the Energy
18 Commission pipeline or the Pollution Control Financing
19 Authority pipeline and related ones. And also where the
20 smaller ones, to steer 'em toward our loan program.

21 But the four projects that we are most
22 encouraged about, and most of these have not really gone
23 public, so I'm just kind of giving you a really brief
24 overview of them.

25 One is a gasification project where the parties

1 have talked with, in Riverside County with some of the
2 local haulers, and there's a county RFP that is out on
3 the streets asking for proposals for a mixed solid waste
4 processing facility which would be designed to replace
5 Etom Hill landfill when that closes. That RFP -- the
6 proposals are due, I believe it's December 10th. So
7 hopefully we will see some real proposals submitted to
8 Riverside, and be able to, those will then be public, and
9 be able to go forward with assisting those.

10 There's another company in Orange County that is
11 considering a gasification facility which would be
12 co-located at a MRF. They're not ready for real
13 assistance yet, but they're getting close.

14 Another company in Southern California that
15 would like funding more than permit assistance to produce
16 ethanol.

17 And then finally, a fourth project that would be
18 located at a landfill in Los Angeles; install
19 microturbines, an anaerobic digestion system, run the
20 resulting gas through microturbines, and sell the power
21 back to the city. And that one is fairly far along, it
22 hasn't gone into permitting status yet, but it's close to
23 it.

24 What we would do with these specific projects is
25 most of the project proponents have questions about the

1 permitting process and how long it will take. And we
2 don't have great answers to this because there are no
3 facilities in California.

4 So our goal has been or will be to link local
5 and state permitting entities, and try and help
6 coordinate the process.

7 And to do that, for example, with one project
8 we've already contacted Cal EPA's permit assistance
9 folks, Chris Kinney up in Secretary Hickox's office, and
10 she in turn has put together the permit assistance center
11 in a particular area together with the project proponent,
12 and when the project proponent is ready, they will bring
13 together all the state and local permitting entities to
14 talk about exactly what permitting processes the
15 proponent has to go to, how they can coordinate some of
16 the permitting, and provide whatever assistance they
17 can. And we'll be part of that discussion.

18 And of course, that's where a lot of the siting
19 issues will come up. There will be, obviously local
20 zoning and planning considerations, environmental justice
21 factors, air quality issues, and transportation issues.
22 So we're almost ready to roll.

23 And lastly, the last couple of slides, I just
24 wanted to flag to you that in talking with proponents and
25 with folks with our legal office and Permitting and

1 Enforcement, it's clear that our regulations cover some
2 aspects of the conversion technologies and not others.

3 For example, gasification is defined as part of
4 transformation in statute. So the way we've been
5 permitting that, it would get a full permit under the
6 transfer station processing regulations at this time.

7 Hydrolysis is not defined in statute, so we're
8 not sure what kind of permit it would get, we'd probably
9 have to deal with that at this time on a case by case
10 basis.

11 Anaerobic digestion is included as part of the
12 composting regs, so its permit would depend on what kind
13 of feedstock it gets and its size. So, you know, this
14 might be fine. We're not sure, the other question that's
15 come up is how to ensure that, as these facilities are
16 hopefully developed, how to ensure that they do not
17 impair any of the up-front recycling and diversion
18 programs that are already in place at the local
19 jurisdictional level. So that's a critical issue.

20 So to try and start talking about some of these
21 issues, we have, we'll be having a staff sponsored
22 workshop on January 8th, there's a flyer in the back, and
23 we've just sent out a mailing, e-mail and hard mail just
24 in the last day. January 8th in the morning on this
25 issue.

1 And we've developed a background paper that
2 explains the current statutory and regulatory framework,
3 and that's available on our website.

4 And our basic intent here is to get external
5 feedback on questions such as should these conversion
6 technologies be defined separately from transformation?
7 Should we just discontinue the status quo in terms of
8 permitting them? Or how should they be regulated? And
9 then we'll compile that, and if there's more or less a
10 consensus for some change we'll bring that back to the
11 Board a month or two later with some recommendations.

12 Let's see, that's right, I'm going to let the
13 tech person do this right.

14 This is the end.

15 MR. BERTON: This is the fun part.

16 MR. LEVENSON: That's all we have. Fernando
17 just told me that he's watched the film, and it turns out
18 the doctor did throw the aluminum can into the recycling
19 bin and did not put it into the trash.

20 If you have any questions we'd be happy to try
21 and answer them.

22 BOARD CHAIR MOULTON-PATTERSON: Thank you very
23 much, that was really informative.

24 Any questions?

25 BOARD MEMBER JONES: Madam Chair, just one thing

1 quick.

2 BOARD CHAIR MOULTON-PATTERSON: Steve.

3 BOARD MEMBER JONES: I'm working on this
4 sustainability workshop -- deal they're having at the
5 Alameda Waste Management Authority in February. For the
6 last about six months we've been working on this thing.

7 We had a meeting a couple of days ago and
8 they're asking me what is, what do you think the future
9 is? And I started to talk to them about conversion
10 technology.

11 And they get, you know, if you'd know the people
12 in Alameda County and you understand some of the politics
13 down there, they get real nervous about stuff like that,
14 which I think really offers an opportunity for us to keep
15 talking about these things, because clearly, you know,
16 you can only recycle so much.

17 If you look in the paper today, and when we were
18 doing the RPPC I didn't want to bring it up, but right
19 now HDPE picked up, it's four cents a pound. That's the
20 lowest it's ever been. So that's for a normal bale.

21 When you go into a MRF and you see bales of
22 plastic, its value is \$32. So imagine the work that it
23 took to accumulate enough stuff which would be a forty
24 yard bin to come into one bale. That's \$32 is what they
25 would get paid for it today out of L.A. and anywhere in

1 the State of California.

2 So we've got to be looking at these types of
3 technologies, and I'm, Howard is going to get me some
4 information on another project that people have asked for
5 some assistance on that the Board has been working on,
6 and at an appropriate time I'll let people know. But I
7 don't even know if it's possible, but we need to talk
8 about it.

9 But the amazing part, and the part we've really
10 got to think about is when these are at the ends of
11 MRF's, the stuff that can be pulled that has a place in
12 the marketplace, that's going to happen. And it's that
13 residual amount that can be used it's what's going to
14 pull people along to continue this thing.

15 And I think as a Board if we all still feel
16 comfortable about this we're going to make that
17 concentrated effort to feel comfortable with everything
18 about this so that we can keep promoting it, because this
19 is the future. I mean this is where we're going.

20 We were talking about burn dumps a half hour
21 ago, and that was the way you dealt with solid waste, and
22 this is the way we're going to be dealing with it.

23 So I hate to preach to the choir because I know
24 you guys know that, but when I saw the reaction in
25 Alameda County with people that deal with this all the

1 time, it was their perception that this was somehow not
2 environmentally friendly.

3 That really I think has, it defines our
4 challenge to make people understand the environmental,
5 benefit, and how you can bring people along.

6 So I throw that up.

7 BOARD CHAIR MOULTON-PATTERSON: Again, thank you
8 very much. And I think, Judy, we would like to be kept
9 informed, maybe quarterly or whenever you think, and let
10 us know what we as Board members can do to help also
11 because it is really exciting.

12 Okay. So now we're onto electronic waste
13 working group.

14 MS. WILLD-WAGNER: Item number five, moving
15 right along, yes. I'm Shirley Willd-Wagner with the
16 special waste division.

17 We've all been hearing about electronic waste or
18 E-waste for probably over a year now, and we thought it
19 was a good time to provide you with an update on the
20 Board activities and specifically to identify the
21 challenges that still remain to our stakeholders, the
22 local governments, the local enforcement agencies,
23 landfill operators and owners, so that's what we're going
24 to do today.

25 The Board's internal working group was formed

1 about a year ago, and it includes representation from all
2 divisions of the Board within the office. This issue
3 certainly affects all of us.

4 We have worked together to bring the, today's
5 item together, and I think as a good example of what a
6 great and cooperative working group we are, we had a
7 unanimous nomination to have Jeff Hunts present the item
8 for us. That was, since so many of these things do
9 develop into market development issues we felt that the
10 Waste Prevention Market Development Division was
11 appropriate to represent us.

12 So I'd like to thank all the members of the
13 working group, we have representation from all the Board
14 offices and divisions, and they've put together this
15 item.

16 Also, they've contributed ongoing over the last
17 year, issues are coming up all the time, things are
18 changing, and this group has been very committed to
19 looking for ways to be proactive in addressing the
20 complicated issue.

21 The members of the working group are here today
22 to answer questions if you have any, or participate in a
23 discussion following Jeff's presentation.

24 And also we're fortunate to have with us today
25 Miss Peggy Harris from the Department of Toxic Substances

1 Control. She's the Chief of the State Regulatory
2 Programs Division, and Peggy and her staff, Charles
3 Corcoran, have both worked very cooperatively with our
4 working group, both in looking at the baseline report,
5 which you'll hear more about next week, and also in
6 developing the emergency regulations on the management of
7 cathode ray tubes or CRTs. So Peggy can answer any
8 questions, especially specific to the regulations, after
9 Jeff's presentation.

10 So with that introduction I'll turn it over to
11 Jeff.

12 MR. HUNTS: Thank you, Shirley.

13 As Shirley did say, my name is Jeff Hunts, and
14 usually I'm a supervisor in the Waste Prevention Market
15 Development Division supervising the Board's business
16 waste reduction programs. I was unanimously nominated to
17 be the spokesman for the in-house working group today.
18 And as she noted, several of the members of the working
19 group are here should any issues come up as part of this
20 presentation that I'm not able to answer.

21 This item, the purpose of it is to provide the
22 Board a summary of the evolving landscape as regards to
23 E-waste; highlight a few of the specific issues that are
24 impacting Board programs and Board stakeholders. We're
25 also going to provide a overview of some current

1 activities that Board staff are engaged in to respond to
2 this emerging topic. And we will identify a range of
3 future issues or challenges that are going to continue to
4 present challenges to the Board and to our stakeholders
5 as we move forward.

6 What is this challenge? Well first of all, we
7 need to declare that there is no hard and fast textbook
8 definition of what E-waste is.

9 For the purposes of this presentation and as we
10 toil in the working group we broadly defined E-waste as
11 electronic products that are at or nearing the end of
12 their useful life. This includes computers, computer
13 monitors, television, stereos, VCRs, fax machines, and
14 increasingly number of personal electronic devices, Palm
15 Pilots and other PDAs.

16 It's important to note that CRTs, cathode ray
17 tubes, is not the only component of E-waste that we're
18 concerned about or that we'd like to keep out of the
19 landfill.

20 E-waste is currently estimated to be about two
21 to five percent of the nation's waste stream, and it's
22 generally recognized to be a growing component due to the
23 proliferation of consumer electronics and rapid
24 technology turnover.

25 Unfortunately, we don't have real good numbers

1 for California specific waste streams at this time, but
2 given that California tends to be cutting edge when it
3 comes to the use of technology, we can be confident that
4 we're at the upper end of that range.

5 The infrastructure to effectively manage
6 diverted E-waste or, again, divert E-waste from
7 unnecessary or inappropriate disposal, is currently in
8 flux. It has existed, but due to changing regulations
9 and new interpretations what's available right now is not
10 considered to be adequate. And lastly, but not least at
11 all, is the matter of CRTs and the fact that they cannot
12 be disposed of in municipal solid waste landfills.

13 Some of the issues associated with managing
14 discarded electronic products include the fact that
15 obsolete electronics are burdening the existing
16 collection infrastructures, such as bulky waste
17 collection days, and HHW household hazardous waste events
18 and facilities. And they are challenging future
19 management strategies, mainly by raising the question of
20 who's going to pay for all of this.

21 Like so much of the rest of the waste stream,
22 much of E-waste can be recovered, reused, refurbished, or
23 recycled, if it's properly collected and handled and
24 converted into appropriate channels.

25 And as well, like much of, or certain components

1 of the municipal waste stream, some components of E-waste
2 can be hazardous if they're not managed correctly. This
3 includes not only the lead in CRTs, but other heavy
4 metals, mercury cadmium that can be found in electronic
5 products, as well as other substances such as fire
6 retardants in plastics.

7 Well I'll just shorten my presentation there.
8 Oh, there we go.

9 Consumer awareness is increasing absolutely, and
10 certainly my staffer Terri Cronin knows that because her
11 phone number has been publicized in certain counties
12 throughout the state as the "go to" person for
13 information on where people can take their obsolete
14 E-waste. This is a result of limited publicity. And
15 increasingly people want to know and they expect there to
16 be options for managing the materials that they want to
17 throw away, or not throw away but get rid of.

18 And what's being done? Some communities have
19 begun offering collection options, either as a component
20 of existing collection programs or as separate events.
21 In fact, Sacramento itself had an E-waste collection
22 event just a couple of weeks ago, though as part of the
23 confusion around E-waste, in that publicity for
24 Sacramento they incorrectly noted that both, all E-waste,
25 CRTs and computers, cannot be disposed of in landfills.

1 We'd like to keep them all out, but there is some
2 confusion swirling around out there.

3 Some of the more prominent manufacturers and
4 retailers are developing limited recovery programs,
5 though they all come with a cost. And some organizations
6 are finding business opportunities in the recovery of
7 discarded equipment, either through refurbishment and
8 reuse or through recycling scrap.

9 So what are we doing here at the Board to
10 address this challenge? The next segment of my
11 presentation will cover some of the activities that the
12 staff are involved in.

13 We've talked a little bit about the E-waste
14 working group; its function; to provide some information
15 on what we're doing to identify the existing
16 infrastructure and what we're doing, what little we're
17 doing to improve that; what we're doing to support state
18 and local agencies, or partners, and importantly, our
19 partners at the LEA level; and what we're doing to
20 coordinate the growing amount of information related to
21 E-waste.

22 The working group, as Shirley noted, it consists
23 of representatives from all across the Board, P and E,
24 Special Waste, Local Assistance, Waste Prevention, Market
25 Development, Policy Office, as well as Board member

1 offices. We've come together out of a recognized need to
2 share information and discuss emerging issues. And
3 E-waste certainly will continue to have an impact on
4 nearly all of the Board's divisions.

5 We meet regularly, pretty much monthly, unless a
6 new development comes to light that requires us to gather
7 more frequently.

8 The group also provides a forum through which we
9 can better communicate and coordinate with DTSC these
10 actions on CRTs. And we'll discuss those in a minute.
11 This is a major driving force behind our focusing
12 seriously on E-waste at this time.

13 There's been a market driven recovery
14 infrastructure for discarded electronic equipment. We, I
15 don't want to convey the impression that nothing exists
16 out there to handle electronic discards, but it's been a
17 market driven infrastructure, but some changes in
18 regulations and interpretations are upsetting the status
19 quo as well as the growing number of diversion programs
20 that are being implemented by local governments.

21 Some of the -- what are we doing? We, the Board
22 has conducted a study that will be presented to the Board
23 in San Francisco later this month, that was designed to
24 better understand generation rates and stockpiles from a
25 certain segment of E-waste generators, namely residents.

1 And to look at what the capacity, the existing and future
2 capacity is for managing that equipment.

3 We've been compiling and providing information
4 on reuse and recycling options for quite a while. We
5 stepped this up in the last year.

6 I want to note that back in 1997 the Cal MAX
7 connection of the year award was presented to an E-waste
8 recovery, reuse and recycling operation. So we've been
9 working on this for a while.

10 The Board recently issued an RFP, proposals are
11 due in mid-January, to provide data and informational
12 support to our, the Board's participation in a national
13 product stewardship initiative -- you'll get a little bit
14 more on that later -- as well as a recycling market
15 development zone program that is capable of providing
16 financial assistance to E-waste recycling businesses,
17 depending on the materials that they're handling and the
18 types of products that they're producing.

19 The support, to support a constituents at state
20 and local agencies, the Board is currently engaged in an
21 interagency agreement with state and consumer agencies,
22 particularly DTSC, to develop and promote procurement and
23 end-of-life management guidelines for electronic
24 products. These will be useful to both public and
25 private organizations.

1 The Board also recently approved a Board
2 contract concept to develop best management practices for
3 E-waste recovery programs which will assist local
4 governments when they are considering collection
5 programs.

6 The Board also provides HHW and reuse assistance
7 grants that can be used to establish collection
8 infrastructures or facilities to collect components of
9 E-waste for reuse and recycling.

10 And staff does provide what assistance we can to
11 locals in support of collection events. For the most
12 part this is reflected to hosting information on events
13 through our E-waste website, and facilitating the
14 exchange of experience and information from one local
15 event to another.

16 The Board is required to provide ongoing
17 outreach and assistance and guidance to LEAs regarding
18 proper oversight of waste management at solid waste
19 facilities where E-waste is tending to accumulate.

20 The LEA assistance staff have worked through a
21 number of channels to provide this assistance. They've
22 worked with the local enforcement roundtable that
23 conducts fifteen meetings a year, five venues across the
24 state three times a year.

25 Also with the local enforcement, Enforcement

1 Advisory Council, a group that some of you may have had
2 lunch today with, with the CCDEH, the California
3 Conference of Directors of Solid Waste, I'm sorry,
4 Directors of Environmental Health, their Solid Waste
5 Policy Committee.

6 And also by participating in CCDEH regional
7 meetings.

8 The Board has distributed letters, LEA
9 assistance staff has distributed letters, and all LEA
10 e-mail alerts, it's a very effective way of getting
11 information out to LEAs, on changes in law and
12 interpretations.

13 And there is a future LEA advisory planned upon
14 the adoption of permanent DTSC regulations with regard to
15 CRTs.

16 The Board has been fortunate, is fortunate to
17 have an extraordinary technological environment, and that
18 makes information management one of the Board's
19 strengths.

20 We've demonstrated this through the rapid
21 development of the electronic product management website
22 within the Board's overall website. That site is
23 continuously updated to provide stakeholders with
24 information on events, news, regulatory developments, and
25 new initiatives.

1 And a new tool, we'd hoped to have it ready for
2 you today, unfortunately we'll be rolling it out in the
3 next couple of weeks, is the materials collection
4 database. It's a result of a collaboration between the
5 Waste Prevention Market Development Division and IMB to
6 provide a new database that will be, allow our
7 stakeholders to search both geographically and by
8 material type for reuse and recycling opportunities for
9 non-traditional commodities.

10 The database will initially be populated with
11 information on electronic products, recovery options, and
12 C and D recovery options, but will eventually encompass
13 such things as plastics and other materials beyond
14 bottles and cans.

15 As mentioned earlier, the Board has conducted a
16 study, recently completed, and will be presented later
17 this month in San Francisco regarding current E-waste
18 generation rates, and the capacity of the existing
19 infrastructure to manage those materials.

20 This study is similar to an ongoing effort
21 that's focusing on universal waste generation and
22 management capacities.

23 Universal waste, which includes batteries,
24 flourescent lights, and certain mercury switches, ensures
25 similar collection and management challenges with

1 E-waste.

2 Also described earlier are the efforts that we
3 undertake to keep our partners apprised of developments,
4 outreach to locals, LEAs, and industry groups who speak
5 through speaking opportunities has been ongoing as
6 interest in E-waste heightens. I know Mr. Paparian and
7 his office have been active in this area.

8 As indicated earlier, California's interest in
9 E-waste is being driven in no small part by certain
10 clarifications provided by DTSC in March of this year
11 regarding the regulatory status of CRTs or cathode ray
12 tubes. DTSC has provided us graciously with a brief
13 recap of recent developments in this area.

14 Prior to 2000, few people knew that CRTs
15 contained toxic constituents, mainly lead, at hazardous
16 concentrations. And therefore, CRTs have been routinely
17 disposed to the trash.

18 In late 1999 and early 2000, new research, and I
19 believe this was conducted in Florida, indicated that
20 CRTs did contain lead at levels sufficient to meet
21 federal hazardous waste criteria.

22 Then in March of this year, as part of a
23 response to a letter from Materials for the Future
24 Foundation, DTSC clarified that California law, based in
25 California law, CRTs meet the existing hazardous waste

1 criteria and should be handled as hazardous waste.

2 Now, what did that letter do? First of all,
3 that letter did not change existing regulation in any
4 way, the letter itself. But the letter did increase
5 public awareness that CRTs are hazardous waste or were
6 hazardous waste, and may not be disposed of in municipal
7 solid waste landfills. CRTs may be disposed of in class
8 one solid waste landfills.

9 Then in August of this year emergency
10 regulations were adopted by DTSC classifying CRTs as
11 universal waste when recycled. And this change reduced
12 the management requirements for CRTs, but maintained the
13 prohibition on municipal landfill disposal.

14 Where do we go from here? I've covered some of
15 the efforts that are currently underway at the Board to
16 assist in the proper handling, diversion, and management
17 of E-waste, but there's much left to be done and many
18 challenges lay ahead.

19 What we're hearing from stakeholders as they
20 begin to address E-waste issues within their realms
21 include some of the following:

22 From local governments we're hearing concerns
23 about program and HHW funding. It's really all about the
24 money.

25 We're also hearing that they would like us to

1 provide more education and outreach information, canned
2 material that they can use.

3 And they have concerns about shifting illegal
4 disposal. What we mean by that is that when CRTs were
5 going into the landfill before, that was illegal; now
6 that people know they can't go into the landfill, where
7 do they go? And if there's not an infrastructure to
8 collect them, they can end up at another illegal
9 disposition.

10 What we're hearing from our LEA partners is that
11 they want timely and accurate information as well as
12 whatever options and resources we can provide, guidance
13 that they can pass on to their local customers.

14 Perhaps not surprisingly, they also would like
15 to see documentation that supports the new policies. In
16 certain areas of the state there's, they're incredulous
17 that, "What do you mean these things are toxic and they
18 can't go into landfills anymore?"

19 They would like regulatory clarity.

20 And a definition of their roles and
21 responsibilities. Where do their responsibilities leave
22 off and that of the CUPAs pick up? And they see this,
23 they see this as possible cross media opportunities.

24 And as well, they have concerns about illegal
25 dumping and what assistance we can provide there.

1 What we're hearing from industry, and that's
2 both the manufacturers of electronic equipment as well as
3 those businesses that recover the material, one of their
4 concerns is about this evolving concept of stewardship,
5 what does this mean, what is that going to require of
6 them?

7 They're also concerned about markets, are there
8 markets domestically versus overseas? Much of the
9 electronic equipment that is discarded is manufactured
10 elsewhere.

11 And as well they're concerned about regulatory
12 uncertainty, what lies ahead. If it's CRTs today, what
13 comes next?

14 And the environmental community is expressing
15 concerns about the toxics that currently are in products.
16 They'd like to see a phase-out of hazardous materials.

17 They're talking about zero waste concepts
18 designed for the environment and how to internalize costs
19 in the distribution systems, distribution and collection
20 systems for electronics products.

21 And they have expressed real concerns about
22 hazardous exports, are we just shipping our problems off
23 to other countries? And are there offshore environmental
24 standards that we can sleep at night about?

25 What lies ahead in the future? To summarize

1 some of the key future issues facing the Board and its
2 constituents:

3 Funding. Again it's the money. Funding for
4 collection and management programs will continue to be a
5 concern.

6 Outreach and assistance to stakeholders is
7 critical. Again I say that, assistance to stakeholders
8 is critical.

9 Coordination, ongoing and improved coordination
10 with DTSC and other governmental entities is vital.
11 We've enjoyed a very cooperative working relationship as
12 part of the E-waste working group.

13 As well as continued participation in national
14 stewardship dialogues, product stewardship dialogues;
15 that this will help shape the future of E-waste
16 management in California.

17 And with that last bullet I do want to point out
18 that the Board is, in fact, engaged in the National
19 Electronics Product Stewardship Initiative, or NEPSI,
20 with Board Member Paparian serving to convey California's
21 interest into that ongoing dialogue.

22 What's hoped to be achieved through this
23 participation is the development of a system which
24 includes a viable financing mechanism to maximize the
25 collection, reuse, and recycling of used electronics,

1 while considering appropriate incentives to design
2 products that facilitate source reduction, reuse, and
3 recycling, reduce toxicity, and increase recycled
4 content.

5 And sure, it sounds pretty lofty. We have to
6 start somewhere, and we might as well aim high.

7 As I noted, many of the members of the working
8 group are here today and are available to answer
9 questions if there are any.

10 With that, thank you very much.

11 BOARD CHAIR MOULTON-PATTERSON: Thank you, Jeff,
12 that was real informative.

13 Any questions or comments?

14 Mike?

15 BOARD MEMBER PAPARIAN: Thank you, Jeff, that
16 was great, and I want to thank all the staff involved in
17 this. It's been remarkable what you've been able to
18 accomplish on this issue given all the other priorities
19 and responsibilities that are out there.

20 I wanted to mention a couple of things, if
21 that's all right, just to follow up on the NEPSI process
22 that I am participating in.

23 It's not just me. Peggy Harris from the
24 Department of Toxic Substances Control, and Mark Kennedy
25 are also very actively, and in fact, more actively in

1 terms of actually showing up at a lot of the meetings
2 than I am.

3 We have a road map for the NEPSI process that
4 describes where we expect to be at each of our meetings
5 over the next few months. I thought I'd hand this out to
6 the Board just as background. I have a few extra copies,
7 and if there's not enough to go around to people who want
8 them, it's on the NEPSI website which is www.nepsi.org.

9 The NEPSI process, they just had a meeting a few
10 weeks ago in Boston. At that meeting there were some
11 working groups formed on financing, infrastructure, and
12 regulatory issues. Those working groups are going to be
13 meeting over the next few months. There's another
14 meeting coming up in Florida in late January.

15 The plan is to have a few more meetings after
16 that, and then hopefully a draft agreement by September
17 of 2002.

18 One other effort on E-waste that I thought I
19 might mention for folks is that Senator Romero, in
20 addition to her interest in landfills, has an interest in
21 electronic waste, and is planning to have a hearing in
22 January on electronic waste. We haven't heard about a
23 specific date yet, but we're expecting that they're going
24 to ask the Board and Toxics to participate in that
25 effort.

1 So anyway I wanted to, you know, thanks again to
2 the E-waste working group. And I think that the working
3 relationship that we have with Toxics on this issue is
4 very strong, and I think it's serving as a, perhaps a
5 model on other issues where we've had strained
6 relationships in the past. Hopefully we can look to this
7 as a model of the types of good relationships we ought to
8 be having.

9 BOARD CHAIR MOULTON-PATTERSON: Thanks, Mike,
10 and thanks for your work and everyone on your staff.

11 Thanks Jeff, that was great.

12 And Steve, last but not least.

13 BOARD MEMBER JONES: For Peggy Harris, while
14 these guys are setting up I want to ask a question.

15 I'm not going to sound like a Neanderthal and
16 think that this stuff doesn't need to be dealt with, but
17 I do. But I always hear it referred to as the lead in
18 the CRTs.

19 And I've participated in, had enough materials
20 sent away to watch how they can grind up wood that is
21 lead based to figure out what those flows are. But I've
22 never seen the lead from a television tube or CRT tube
23 disintegrate like that.

24 So I'm wondering what's the scientific basis for
25 how that's going to come apart in a landfill that drives

1 this thing?

2 MS. HARRIS: I guess our criteria that's set
3 forth in regulation and statute requires, there's two
4 ways that it fails our criteria.

5 One is under our soluble levels, which is the
6 crushing; the other is the total.

7 So under our criteria it actually has us run the
8 tests in a certain way looking at the soluble and
9 totals. So it does fail for both of those criteria.

10 And to get more directly at the question you're
11 really asking, is when they are in a landfill or any
12 other management scenario, our real concern is when those
13 CRTs get broken.

14 So what we have done, even when we did our
15 emergency regulations, was reflect that concern in those
16 regulations so we don't require the registered hauler, we
17 don't really require the full permit, what we really
18 required was only a notification so that we could sort of
19 keep track of this stuff to make sure it doesn't end up
20 in a mismanagement scenario, and at the same time get it
21 to a recycler without going into a disposal.

22 So we also recognize that they're not of concern
23 unless they're broken, so we've put together a regulatory
24 approach that tries to encourage them to get to a proper
25 management scenario without getting broken.

1 So all of our requirements are really only
2 notification and clean up any broken CRTs, and that's
3 basically all we require.

4 BOARD MEMBER JONES: So the glass is, the lead
5 is encased in the glass?

6 MS. HARRIS: It is.

7 BOARD MEMBER JONES: And a tube implodes. And
8 so you're saying that that lead, that lead that's encased
9 in glass is somehow going to leach out of the glass?

10 MS. HARRIS: It does. It failed our leachable
11 criteria which shows that it actually does and can leach.

12 BOARD MEMBER JONES: And do we have signs of
13 that in landfills throughout the state that we have that
14 kind of lead, since we've been throwing away T.V. tubes
15 and all these things for, since 1950?

16 MS. HARRIS: I don't really have that
17 information.

18 BOARD MEMBER JONES: I just wonder because there
19 are huge amount of resources are going to go to this, so
20 I'm not saying we shouldn't do something about it, that's
21 not where I'm coming from, but I don't understand, and
22 I've talked to plenty, how we duplicate. Because I know
23 how we duplicate those things for every other kind of
24 product. But a lead that's enclosed in glass, when it
25 implodes it's a sliver of gas. So I don't know how the

1 leachate got into that to make it.

2 And that's all I worry about because I worry
3 about cities and counties trying to deal with a whole lot
4 of issues, now those issues are going to have to be put
5 off to the side to deal with these. And I just, I hope
6 that we've, you know, really looked at, and I know
7 there's switches and other things that are of equal, I
8 mean are of more concern than I have with the lead in the
9 CRTs because I just don't, it's always amazed me how
10 that got out. So --

11 MS. HARRIS: I understand your concern.
12 Just for interest's sake, the CRTs also failed the
13 federal criteria which is not as aggressive as the state
14 criteria.

15 BOARD MEMBER JONES: If it's ground?

16 MS. HARRIS: Correct.

17 BOARD MEMBER JONES: If it's ground. And that's
18 where, I guess that's where my issue is, it never gets
19 ground in a landfill.

20 MS. HARRIS: It gets broken.

21 BOARD MEMBER JONES: Slivered. There's a
22 difference. Okay.

23 BOARD CHAIR MOULTON-PATTERSON: Thank you.
24 Thank you.

25 Steve, our last discussion item.

1 MR. LEVINE: Good afternoon. Steven Levine,
2 Legal Office.

3 This is a discussion of options regarding
4 revisions to the regulations for the solid waste facility
5 permit application process, and the implementation of a
6 pilot program establishing submission dates for solid
7 waste facility applications.

8 As you know, there's been a longstanding problem
9 relating to the solid waste application process. Under
10 the present law, staff's sixty day period to evaluate
11 proposed permits is often substantially curtailed by the
12 LEAs timing of their submissions.

13 For instance, if a scheduled Board meeting falls
14 just after the expiration of our 60 day review period,
15 say February 20th is our Board meeting but our sixty day
16 review period ends February 18th, we can't hear it at
17 that Board meeting, staff is forced to agendaize the item
18 for the preceding month, the January Board meeting,
19 essentially cutting staff's review time in half.

20 Now staff has considered a number of options to
21 resolve the problem, including both legislative and
22 non-legislative solutions. This discussion focuses on
23 the non-legislative options which may be implemented over
24 the short-term. I'll start by addressing the recommended
25 option, and then compare that solution to other options

1 which were considered.

2 One potential solution to the problem would
3 involve the adoption of a fixed and constant date such as
4 the final Monday of every month for operator submissions
5 for solid waste facility permit applications to the LEA.
6 So this would be the operator to the LEA.

7 Now due to the mechanics of just how the U.S.
8 calendaring system works, this system, as you'll see,
9 will ensure that in most cases staff will have
10 substantially all of their statutorily prescribed sixty
11 day period to evaluate the permit package before the
12 Board meeting.

13 This solution could be implemented through a
14 pilot program and then through regulations. And it could
15 be implemented in conjunction with another regulation
16 regarding the issue of an LEA's timely submission of the
17 whole package to the Board, which I'll get to near the
18 end of my presentation.

19 But first I'd like to just give an oral review
20 of the present schedule for permit application and the
21 review process. It was developed to assure the timely
22 compliance of the 150 day time period set forth in the
23 PRC, and that's 150 days from the date the operator first
24 submits the proposed, the application, to the date that
25 the Board has to concur or object.

1 Pursuant to the PRC, that has to be filed at
2 least 150 days in advance of the date on which the
3 operator desires to commence operations.

4 Now, in an attempt to ensure that the Board can
5 timely take that action, this following schedule was
6 adopted. And the Board, the Board also has individual
7 packets containing this chart if it's easier to read on
8 that, it would be page five.

9 As you can see, there are various regulations
10 and statutes that set forth the process. Initially the
11 LEA has 30 days to determine whether the package
12 submitted by the operator is complete.

13 If it is complete, then within five days from
14 mailing, that LEA sends the application itself, and not
15 necessarily the package and we'll get to that, the
16 application to the Board, and then spends the next 55
17 days or so preparing the proposed permit.

18 And that brings us to day 85 on our chart. And
19 that's the deadline for the LEA to mail the proposed
20 permit to the Board, which pretty much starts the Board's
21 evaluation process.

22 We get it on day 90, and we should have 60 days
23 before the deadline for the Board to concur or to object.

24 As you can see from the next chart though, that
25 time period can be substantially curtailed as I had

1 indicated before.

2 If the initial operator submission happened to
3 be on, let's say in this example, January 19th, you'll
4 see if you skip down, the LEA deems it complete, he
5 prepares the permit. If you get to day ninety, and that
6 turns out to be April 18th, this example would be this
7 year, and that would be the date that the Board receives
8 the package.

9 Well our deadline to concur or object would be
10 60 days thereafter, which is June 17th. But in this
11 particular example our Board meeting is not until June
12 19th. And if we don't act by June 17th, it is
13 automatically deemed concurred to by the Board.

14 That forces the Board, as you can see at the
15 bottom there, to go ahead and schedule the Board
16 presentation for the preceding month, which this year was
17 May 22nd, 23rd, and we essentially lose half of our
18 review time.

19 So the system needs to be modified. And the
20 modification, we were looking at two main goals.

21 One, to assure that staff receives substantially
22 all of the their statutory 60 day period.

23 And then number two, we want to minimize any
24 impacts this schedule will have on either LEAs or
25 operators.

1 And that gets to the proposal of this fixed and
2 constant date and how that will give us the 60 day
3 period.

4 The Board would continue to use its present
5 policy of setting dates certain each month for Board
6 meetings. And where practicable, that's either the third
7 or fourth Tuesday, Wednesday of the month, as we have
8 done in the past and we are doing now.

9 In addition, we will set that certain date each
10 month as the date that the LEAs shall accept applications
11 from operators. And the way the calendaring system
12 works, it's simply the final Monday of every month.

13 And you can, again it's in your packet and also
14 on the screen right now, is an example of how the
15 schedule works for the coming year. And it's a little
16 hard to see, but what I have in bold, either for the
17 third Tuesday, Wednesday of the month, or the fourth
18 Tuesday, Wednesday of the month, the day that coincides
19 with our Board deadline.

20 So for example, the first line in this coming
21 January, the final Monday of the month is January 28th.
22 The LEA will take, needs to take under this system is 30
23 days to deem the application complete, and then sends the
24 application to us.

25 And as you can see, after another 55 days, plus

1 five for mailing, we would get the packet on April 27th.
2 The deadline for consideration is June 26th, and that
3 coincides exactly with the fourth Tuesday, Wednesday of
4 the month, 150 days after that initial submission date
5 the Board meeting, if it was held on that date, it would
6 be June 25th or 26th.

7 So where the Board does hold it on the fourth
8 Tuesday, Wednesday of the month, in most cases staff will
9 get the full 60 days.

10 On the occasions where the Board sets the
11 meeting for the third Tuesday, Wednesday of the month,
12 staff will lose about a week. But out of a 60 evaluation
13 period, losing a week should not impede the evaluation
14 process.

15 And we've time tested this going out a number of
16 years, and almost always you will end up with either the
17 fourth Tuesday, Wednesday of the month, or in some rare
18 case the third Tuesday, Wednesday, but usually it does
19 fall within either of those times.

20 To the extent that the 60 day period coincides
21 with the third Tuesday, Wednesday of the month, staff
22 will know that ahead of time, and we'll just ask the
23 Board if it's possible for that particular Board meeting
24 to hold it on the third instead of the fourth to
25 accommodate.

1 BOARD MEMBER JONES: Before we get off that,
2 Steve, can I ask a question?

3 MR. LEVINE: Please.

4 BOARD MEMBER JONES: The way you've got that
5 headed it says that you, that the LEA receives the
6 application. Is it the application, or a complete
7 application?

8 MR. LEVINE: The initial 30 day deadline is the
9 period for the LEA to deem it complete.

10 BOARD MEMBER JONES: The operator delivering a
11 permit application --

12 MR. LEVINE: Right.

13 BOARD MEMBER JONES: -- is the operator -- I
14 mean to get to the heart of this issue, is there a
15 complete package delivered to the LEA? Because the LEA,
16 I mean nobody walks in and hands it to them, this is a
17 work in progress for quite a period of time.

18 Are you saying that when it says, in that final
19 Monday of the month, the LEA accepts permit application.

20 MR. LEVINE: I see.

21 BOARD MEMBER JONES: I mean do we say complete
22 permit application?

23 MR. LEVINE: Yes.

24 BOARD MEMBER JONES: Because that's critical. I
25 mean if it's a complete permit application, then the LEA

1 can then work through it. But if they're working, if we
2 just say application and they're still waiting for other
3 documents --

4 MR. LEVINE: Right.

5 BOARD MEMBER JONES: -- then this timetable is
6 in the same place where we're at today.

7 MR. LEVINE: Right.

8 BOARD MEMBER JONES: So I just want to know if
9 we can do that legally, put the word complete?

10 MR. LEVINE: Yeah. Well actually under the
11 regulations, the initial submission, they may have, and
12 this is something I'll get to a little later in the
13 presentation.

14 BOARD MEMBER JONES: Okay, I'm sorry.

15 MR. LEVINE: No, your question I want to address
16 now. But the issue that at all points of this process,
17 the various parties to it can stipulate to various things
18 if they're running behind or running, or want to make it
19 faster.

20 We're, Board staff is more than willing to
21 stipulate to accommodations so long as that stipulation
22 includes our getting our 60 day evaluation period at the
23 end. Right now things may happen and then it gets to
24 that stage, and if they go well, you know, you have to do
25 what you need to do and you don't get that accommodation

1 always.

2 To answer your question, under the present law,
3 statute, and regulations, it's supposed to be a complete
4 application that's submitted, and the LEA has 30 days to
5 make that determination.

6 And so within that 30 days if there's additional
7 paperwork and the LEA and the operator are both fine with
8 that, that's fine with us.

9 BOARD MEMBER JONES: Sure.

10 MR. LEVINE: And then on the 30th day it does
11 need to be deemed complete, and then the application
12 needs to be sent to us, and that does trigger the next*
13 stage of the process then which is the 55 days to
14 prepare.

15 BOARD MEMBER JONES: So when you put this out to
16 the public, if you can just put LEA accepts complete
17 permit application from the operator, that will take away
18 any issues with the operator, any issues with the LEA,
19 and it should satisfy the issues with the staff.

20 Even though it's in law people don't realize it
21 because they accept phone calls to let 'em know that
22 there's a permit package coming. So, okay.

23 MR. LEVINE: Thank you.

24 BOARD CHAIR MOULTON-PATTERSON: Just, I just
25 have one question of Julie and Mark. Don't we get a lot

1 of incomplete packets and then the clock is ticking, I
2 mean just like what we were talking about at lunch?

3 MS. NAUMAN: And I can have Mark elaborate on
4 this. We have situations where there's still information
5 outstanding when we receive the package.

6 MR. DE BIE: Yes, it's clear in regulation what
7 documents need to be included in a complete submittal to
8 the LEA, and it's clear in regulation what a complete
9 submittal to the Waste Management Board is in terms of
10 what documents are included.

11 There are times when we receive a packet, a
12 permit application packet with a proposed permit from the
13 LEA where the parts they are to submit to us are missing.

14 But the 60 day clock does not start based on a
15 complete packet being received, but the proposed permit.
16 And there are extreme situations where an LEA will submit
17 a proposed permit to the Board with no other
18 documentation.

19 BOARD CHAIR MOULTON-PATTERSON: And we have to
20 accept that?

21 MR. DE BIE: The way the regulations are
22 written, yes.

23 BOARD CHAIR MOULTON-PATTERSON: And Mike, I'm
24 sorry.

25 BOARD MEMBER PAPARIAN: Thank you. It seems

1 like one of the presumptions here is that the LEA is
2 taking all the time that they're statutorily allowed. So
3 that if they decided to mail to us on day 70 instead of
4 day 85, it seems to me that that would mess up the whole,
5 we just have 60 days, it's not, we don't have 60 days
6 after, we have 60 days from receipt.

7 MR. LEVINE: Precisely. And the answer is under
8 the new regulations and the pilot program there's one of
9 two options:

10 One, the operator, and particularly the LEA will
11 have to abide by a new standard which they send it on the
12 85th day, they don't send it earlier. And if that is
13 something that they want accommodation on, that is a
14 second option.

15 Either they can send it on the 85th day, or if
16 they want to do it earlier or if they need to do it later
17 for some reason, they can come to staff and ask for a
18 stipulation for an adjustment to the schedule. And staff
19 will accommodate that in most cases so long as part of
20 that stipulated accommodation is that if our Board
21 meeting is a couple of days too late we're not going to
22 be deemed to automatically have concurred.

23 And under the present system these
24 accommodations can take place at the operator and the LEA
25 level, and then it gets to the Board and just

1 coincidentally the 60 days is just before our meeting and
2 we're scrambling.

3 And we need a way to say, we're fine with
4 accommodations, but don't leave us in the lurch at the
5 end of it.

6 BOARD MEMBER JONES: One more thing on that,
7 Madam Chair. Steve, if, if, you know, part of the issue
8 is the terminology complete. I mean if the statute says
9 complete, then the operator is giving, you know, like I
10 said it's a work in progress, they've been working with
11 the LEA for months or sometimes even years.

12 MR. LEVINE: Right.

13 BOARD MEMBER JONES: So they get a complete
14 package. The LEA Looks it over and deems it either
15 complete or not complete, okay. So obviously if it's not
16 complete then the clock, we need to deal with that, say
17 okay, fix this and that's when the clock is going to
18 start.

19 But when the LEA has deemed it complete and
20 sends it to this Board, and somebody in Board staff is
21 doing a review and gives an operator a list of fifty
22 questions, I think that comes to us that we look at that
23 as a non-complete permit when, in fact, it may be a
24 disagreement between the operator and Board staff, or how
25 somebody perceives something.

1 So maybe we need to add some words into our
2 vocabulary so Board members know that a complete package
3 got sent forward and there are five issues still to be
4 resolved. They were, they were sent forward, but there's
5 a difference of opinion. And I think that, that happens
6 all the time.

7 The reason that this deadline got put into place
8 is that permits used to languish here forever. So that's
9 why that, this, this happened.

10 MR. LEVINE: Yes.

11 BOARD MEMBER JONES: So I think looking at why
12 the law was changed.

13 But still, as somebody that's submitted under
14 both scenarios, I want the Board to have the time. But I
15 mean, I do think we need to come up with the right
16 vocabulary on a couple of these things so Board members
17 don't think, in fact, somebody sent forward an
18 application that wasn't complete, it was complete,
19 there's just disagreement, you know what I mean?

20 And I think that makes it easier, you know what
21 I mean? Because those things happen. You don't want
22 this to stay here forever, you know.

23 MR. DE BIE: If I may, Mr. Jones. I totally
24 agree with that assessment. And I think what Steve is
25 presenting here is a mechanism that would allow Board

1 staff adequate enough time to relay our concerns relative
2 to the quality of that application, and work out those
3 problems. Instead of being jammed and having to do it in
4 a matter of weeks, we would have a month or more to work
5 that out so that a finished product can come to you for
6 your concurrence. And so it's just getting the time to
7 do that.

8 Whether it's complete or incomplete is an issue,
9 but it won't be addressed by this pilot and potential new
10 regs, this focuses on just giving adequate time to work
11 out those issues.

12 So the complete and incomplete won't stall or
13 put into limbo a permit based on what Steve's presenting.

14 BOARD MEMBER JONES: I understand that, and I
15 like this proposal. All I'm saying is if the operators
16 know what is expected, and the LEAs know what is
17 expected, right, maybe they all do, maybe mysteriously
18 everybody knows, then, and that's all I'm saying is if we
19 just define that. I think you get what you need, they
20 get what they need, the operators get what they need, and
21 the LEAs get what they need.

22 MR. DE BIE: Certainly. And we're affecting
23 that with things like the toolbox where we list out
24 specifics on what's required.

25 BOARD MEMBER JONES: Right.

1 MR. DE BIE: So there's methods that we're
2 putting in place and continue to work on to address that
3 specific issue on what is required.

4 BOARD MEMBER JONES: Thanks.

5 BOARD CHAIR MOULTON-PATTERSON: Senator Roberti.

6 BOARD MEMBER ROBERTI: So if you can just give
7 me a nutshell, how much extra time are you proposing for
8 staff to consider a permit proposal over and above the
9 very shortest scenario?

10 MR. LEVINE: Well, in the statute it says staff
11 is to have a full 60 days. And what has been happening
12 is that staff has not been getting the 60 days. And in
13 my earlier example, many times staff can get as little as
14 30 days because of the vagaries of the Board setting
15 Board meeting.

16 If the Board would set a special Board meeting
17 to consider the permit, we can just set it 60 days out
18 after the date staff gets it. But because we don't set
19 special Board meetings, they're preset, if we miss the
20 date, it goes to 30.

21 So this is not, if I understand your question,
22 it is not extending the times staff has beyond the 60
23 days that we're entitled to, it's just assuring that we
24 get all or substantially all of the 60 days.

25 BOARD MEMBER ROBERTI: And is it your feeling,

1 now having come up this recommendation, that the LEAs
2 simply want to know what the rules are and then they will
3 abide by them and get them the information, or do they
4 really work it out?

5 MR. LEVINE: Or do they really --

6 BOARD MEMBER ROBERTI: Work it out so that staff
7 has 30 days or is time truly constricted? My
8 conspiratorial mind is telling me that just maybe that's
9 what happens in a couple of instances.

10 MR. DE BIE: Senator, you know, I can't read
11 people's minds but I can see their actions, and I'll tell
12 you that when I've experienced some activities among
13 LEAs, I've walked away with a feeling that they did this
14 on purpose. That they looked at the calendar and figured
15 out the ultimate date that they could, that something
16 could be submitted.

17 There are other reasons why we get things. They
18 didn't stop to think about the ramifications at the Board
19 and our timing. They were looking at the process,
20 overall timeframes, and noted that they, you know, had
21 absorbed all of their time and felt they didn't have a
22 choice but yet, but to submit at the time that they did.

23 So there's a lot of factors going on locally
24 that affect when those proposed permits come up.

25 But, you know, I'll agree that there are some

1 instances where I've walked away saying, you know, they
2 could have, there was no reason why that permit came up
3 when it did.

4 BOARD CHAIR MOULTON-PATTERSON: I don't want to
5 prolong this but just real quickly, Mark. If this Board
6 sent out the message that, look, if you play this type of
7 game we're not going to be backed up against a wall, and
8 you'll either waive the time or the Board will deny the
9 permit, wouldn't this stop?

10 MR. LEVINE: You anticipated something that's
11 coming up, and I'd be happy to address that right now.

12 BOARD CHAIR MOULTON-PATTERSON: Oh, okay.

13 MR. LEVINE: Let me address that right now.

14 In the past there has been discussion about --
15 let me just turn to my outline -- of the Board adopting
16 basically a business practice that either objected to a
17 proposed permit if it's either amended too close to the
18 Board meeting to give staff sufficient time to review, or
19 the information received prior to the BAWDS deadline,
20 which is really our deadline, is insufficient.

21 In the past the Board has had concerns with
22 that, because if the permit application is complete and
23 correct at the time of the Board meeting, the Board has
24 been reluctant to object simply on, solely on the ground
25 that certain of the earlier submissions to staff had been

1 untimely.

2 And, but there, I, in my -- from a legal
3 perspective in the court system, you have deadlines
4 before hearings on motions, and if you don't make the
5 deadlines before the hearing on the motion, it doesn't
6 matter if the day of the hearing you have all of your
7 facts in order to win, you lose. So I believe there is
8 legal precedent for what we're saying and what was
9 proposed before.

10 The other aspect on that proposal though is that
11 it really only addresses the issue of untimely
12 submissions. So if they're giving us a totally complete
13 and correct proposed permit and application package with
14 60 days, but that 60 days falls two days before our Board
15 meeting, we are still left with only 30.

16 BOARD CHAIR MOULTON-PATTERSON: I see your
17 point.

18 CHIEF LEGAL COUNSEL TOBIAS: Madam Chair.

19 BOARD MEMBER ROBERTI: Madam Chair.
20 Kathryn and then Senator Roberti.

21 CHIEF LEGAL COUNSEL TOBIAS: Please go ahead,
22 Senator.

23 BOARD MEMBER ROBERTI: Yeah. Just one point
24 very briefly. And that is if the permit and the
25 application is complete at the time of the Board meeting,

1 can we legally then make a denial based on faulty earlier
2 presentation? I'm all for it, I'm all for it. But we're
3 so restricted in, as to what we can, what the basis for
4 our vote can be, how would we, where, what legal category
5 would we fall under that we can do this?

6 MR. LEVINE: Well, let me give you a
7 hypothetical there. Let's say that the information was
8 insufficient for you, in your Board's view, to concur
9 with the permit up to the date of the hearing.

10 The presentation is presented to you, and the
11 presentation is about to be concluded and it's just not
12 sufficient, and someone comes in with twenty pages and
13 goes look, if you just read this, if you just take a
14 couple of hours, you know, you're going to find that
15 everything is here.

16 It's that kind of a scenario that I believe,
17 under just precedence of timeliness of submissions, you
18 say look, you've missed your deadlines, we're concluding
19 this here, we're not going to extend this another two
20 hours so we can all go back to our caucus and review this
21 and come back.

22 It is an issue. My view is that timeliness can
23 be a ground, but that it only applies to the extent that
24 at the time, the deadlines that are imposed by statute
25 which is that they're supposed to get it complete and

1 correct to us 60 days ahead of time, or at the very least
2 before our BAWDS deadline, that the information at that
3 point was clearly, in your view, insufficient to concur.
4 So --

5 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
6 you.

7 CHIEF LEGAL COUNSEL TOBIAS: I have two points.
8 One is that, Senator Roberti, I think by having
9 this in regulations we would then be in the position
10 where we had basically told, you know, the applicants and
11 the operators what the situation was, and I think we'd be
12 in the position of being able to deny that.

13 Right now we mostly do it by moral persuasion of
14 saying, you know, well we may deny this if you don't
15 agree to the waivers, which I think is okay. But this
16 way we'll be telling people up front what the rule is.
17 And then if they're not meeting it, then I think the
18 Board has a basis to stand on.

19 The chair asked whether, and I think I'll just
20 paraphrase what she said, was that, you know, shouldn't
21 we or couldn't we tell the LEAs that this is what we
22 would like and basically have them comply?

23 And I think that this has been discussed with
24 the LEAs, and I actually think that this is the third
25 time that it's come up in about, I think, three or four

1 years. Actually Mr. Jones discussed a calendar system,
2 and I think Mr. Eaton several years ago, and then we
3 tried other things.

4 So we've basically talked to LEAs. I'm sure
5 this has been discussed more times than you can count in
6 terms of the idea of we are really being squeezed on the
7 timeframe.

8 So to a certain extent, and I don't want to say
9 this is a last resort, but it's certainly a way of saying
10 okay, we have no other choice, but to basically say we
11 need to get our time to review these permits and here's
12 one way of doing it.

13 BOARD CHAIR MOULTON-PATTERSON: Thank you.
14 Sorry for the interruptions.

15 BOARD MEMBER JONES: Can I just ask one
16 question?

17 BOARD CHAIR MOULTON-PATTERSON: Steve.

18 BOARD MEMBER JONES: Sorry about that, but I
19 mean we're on this track.

20 MR. LEVINE: I appreciate that.

21 BOARD MEMBER JONES: What is the burden on our
22 staff if it's our staff that creates the delay? Right
23 now we say we might not want to give a permit to
24 somebody, but we have issues, we have an issue today
25 where we we're looking at three acres that have been

1 identified in a CEQA document, and identified in the
2 permit, and we're not sure exactly how we're going to
3 make that work, so we've asked the operator to waive time
4 to get that fixed.

5 Those types of issues come up all the time.
6 Somebody reads something and says, "I don't like this."
7 And the operator or the LEA has to work to fix it. But
8 if we're, if we're going to get prepared to deny a permit
9 because of timeliness, then what's the burden on staff?
10 And what's the, what is the process if an operator or an
11 LEA feels like they're at an impasse with somebody?
12 Because it can't be all one way.

13 And I agree, I mean don't misunderstand what I'm
14 saying. I've endorsed the idea of a calendar from day
15 one, because I don't want to see you guys jammed. But
16 I've also been on the other side of it when questions
17 have been asked the day before out of left field and
18 you're going, and you've got to scramble to give somebody
19 the answer.

20 Now if that gets represented to this Board as
21 being an incomplete package, it's not fair to me as a, as
22 a, as a person in the industry that wants to get
23 something permitted, and that's all I'm asking.

24 All I'm saying is I have no problem with this,
25 but there's a standard, and it's got to be, and it's got

1 to go both ways.

2 CHIEF LEGAL COUNSEL TOBIAS: And I think that's
3 a fair question and a good point. And I think Julie said
4 it best in the sense that, you know, when we have the
5 adequate time in which to deal with these, I don't think
6 that we'll have to be here saying well, we just, you
7 know, found this problem of, you know, a three acre
8 differential. There may be times when that occurs, but I
9 think everybody works their hardest to not have that
10 occur. And I think that would need to be brought out in
11 a hearing that there would be those kinds of delays.

12 Generally, you know, you want to document your
13 permit process anyway to show when you've asked somebody
14 for additional information.

15 But I think that right now, as you've seen many
16 times over the last couple of years, I think that the
17 number of agenda items that you get where we've said,
18 gosh, we don't have the CEQA information, we don't know
19 this, we don't know that, I think what you're going to
20 see is complete staff reports that have all that
21 information in that.

22 And then I think we'll basically have to trust
23 that, you know, the information will come out if there's
24 some sort of delay on our part, you know.

25 I really do feel like the way the system works

1 that will be clearly identified and we'll have to deal
2 with that. I don't know if Julie wants to add to that?

3 MS. NAUMAN: No.

4 MR. LEVINE: Let me just follow up and make
5 clear that the proposal, that we deny it simply because
6 in our Board's view it's incomplete, is not, is an
7 alternative proposal to the calendar system I'm proposing
8 here.

9 And it was one that is not, and so you have that
10 option we're discussing, that's the purpose of this
11 briefing is to look at which options you want to advise
12 us, but all we're looking for in the recommended proposal
13 is the 60 days, and we'll try to work those issues out.

14 BOARD CHAIR MOULTON-PATTERSON: Okay. Thank
15 you.

16 MR. LEVINE: Sure. And this proposal is not a
17 perfect solution to the problem. Staff is going to
18 continue to find their time curtailed during the holiday
19 months, because oftentimes we don't do it on the third or
20 fourth Tuesday, Wednesday of the month in November,
21 December.

22 And also, as I said before, sometimes
23 occasionally the deadline actually falls on the third,
24 the, where the scheduling meeting on the third Tuesday,
25 Wednesday of the month would be optimal, yet that's not

1 possible.

2 The proposal, however, seems to be a real
3 improvement over both the present system which, of
4 course, we've been discussing, and the other alternatives
5 considered, one of which we've already gone over, and I'd
6 like to go over now a few of the other alternative
7 proposals.

8 One thing staff considered was a permit schedule
9 setting forth specific deadlines for the LEA Submissions
10 to us. So as we talked about before, on that 85th, and
11 then with mail 90th day of the process, we get the
12 proposed permit and package from the LEA.

13 Well we could say, let's look at the calendar
14 for 2002, and let's just go back 60 days for each month
15 and say that's the date the LEA needs to get us that
16 package and no other day.

17 And the problem with that is, one problem is
18 that the LEA is under constraints for its own timing, so
19 it has a certain amount of time to deem it complete in
20 the 30 days, and it's supposed to have a certain amount
21 of time to get it to us. And it could be that by us
22 imposing these rigid 60 day deadlines on LEAs, that
23 they're going to have less than their full 55 days to
24 evaluate the package and prepare the proposed permit.

25 Another option that was considered is specific

1 deadlines for the operator submissions for the
2 application packages. And so instead of just making it,
3 as proposed, the final Monday of each month, we could
4 again take our Board meeting dates for a particular year,
5 backtrack it 150 days, and say, "In January it's going to
6 fall on this day, in February it's going to fall on that
7 day."

8 One of the problems with that is I believe
9 that's going to leave operators sort of questioning well
10 which month am I in, which day is it this month? Where
11 if we use the mechanics of the calendaring system and
12 just say the final Monday, for planning purposes I think
13 that's going to be a lot more straightforward to them.
14 Whether it's going to be a permit this year or a permit
15 next year, they know they're going to have a final Monday
16 date whatever month they pick that they're going to be
17 shooting for.

18 The other problem with LEA submission calendars
19 or operator submission calendars is that the rulemaking
20 rules require that if we're going to make that kind of a
21 schedule, every year we'll have to update our regulations
22 and put into the regulation that next year's calendar.

23 So unless it's a fixed date, like a final Monday
24 which you can just say and then forget about, you're
25 going to have to every year go through the rulemaking

1 process and get your calendars in the regulations.

2 In the alternative, what I'm proposing for the
3 permit schedule, as I mentioned before, it does not
4 burden the operators because the date would be constant
5 to facilitate planning.

6 It wouldn't burden the LEAs because they would
7 continue to have their statutory time.

8 And no annual changes to the regulation would be
9 necessary.

10 Okay. We've already discussed another option
11 which is objecting to the permit because it's untimely,
12 so we've addressed that.

13 Finally, there is a regulation presently on the
14 books that says our 60 day clock doesn't start until we
15 quote unquote "open the envelope" on the proposed permit
16 package from the LEA. In effect that's to make sure that
17 if it takes a day or two for the mail room to get it to
18 the person that's doing it we don't lose those days.

19 Arguably we could make a practice of only
20 opening it on the final Friday of every week, and try to
21 get some more time that way, but that doesn't seem to
22 directly address how much, you know, whether that's going
23 to fix the 60 day problem that we're having.

24 There is one other recommended proposal we have
25 for the Board, and it's been discussed a little already,

1 and that is the issue of the application package itself.

2 As Mark had mentioned, especially for these full
3 permits, it's the application package that's very
4 comprehensive, it often takes staff a lot of time to work
5 their way through.

6 Now, the LEA is required to deem that complete
7 or not complete within 30 days of it first being
8 received. That leaves 120 more days before the Board has
9 to act.

10 But right now, under the present rules, once the
11 LEA deems it complete, the only thing the LEA sends us is
12 the application form itself, the LEA does not send us the
13 application package, even though it should be complete by
14 that time.

15 So we could make an additional change, and are
16 recommending additional change to the regulations that
17 say since it's already deemed complete, since the package
18 is already available for review, why not send the package
19 with us now along with the application so we will get, be
20 able to have that information earlier since there's no
21 reason not to have it earlier. And right now we don't
22 get that application package until that 85th or 90th day
23 under the rules.

24 And then finally, as I mentioned before, in
25 addition to starting the process of implementing

1 regulations on these proposals, we are recommending that
2 a pilot program be instituted commencing in January of
3 2002.

4 Now that does not mean that anything that
5 happens at a Board meeting in January would be affected,
6 but that would mean in January we would be requesting for
7 the LEAs and the operators that LEAs only accept from
8 operators the initial applications on the final Monday of
9 the month.

10 So in January we would then go to the June Board
11 meeting being the first one impacted by this.

12 This pilot program would provide operators and
13 LEAs the time to familiarize themselves with the process
14 before it's placed in regulations. And it would also
15 provide the Board with an opportunity to evaluate the
16 efficacy of the program, and incorporating any changes or
17 modifications that we may see appropriate from that
18 process into the regulations.

19 And that concludes my presentation.

20 BOARD CHAIR MOULTON-PATTERSON: Thank you very
21 much.

22 Questions? Comments?

23 BOARD MEMBER JONES: Madam Chair, I think
24 this -- very good presentation, Steve, I mean you did a
25 nice job laying it out.

1 I think it mechanically will work with the
2 proposed calendar. I think it makes sense to do a pilot
3 program.

4 I think what might be helpful is that during
5 that pilot time, maybe three months into it or so, you
6 could give the Board just a quick update as to the
7 packages submitted, how it's working through the process,
8 you know. And it doesn't even have to be a very big
9 thing.

10 At least some kind of an indication so in June
11 when we see the first permit that would come forward we
12 would have an idea of what's happening. And it doesn't
13 have to be three months, Steve, I mean maybe four or
14 five, just so we kind of know.

15 But I also think that it needs to be the
16 complete package. I think that when the Board staff
17 receives the package from the LEA that they get the
18 application and the package.

19 That would be my recommendation. And I think
20 that's fair to the industry, and it's fair to the staff,
21 and it's fair to the LEA.

22 BOARD MEMBER ROBERTI: Madam Chair.

23 BOARD CHAIR MOULTON-PATTERSON: Senator.

24 BOARD MEMBER ROBERTI: I just want to commend
25 the presenter on a very comprehensible presentation on a

1 very dry topic.

2 BOARD CHAIR MOULTON-PATTERSON: Yes. Thank you,
3 Steve.

4 MR. LEVINE: Thank you.

5 BOARD CHAIR MOULTON-PATTERSON: That is it for
6 the day. And thank you very much, it's been a long day
7 but we've learned a lot.

8 And thank you, everybody did a great job.

9 (Thereupon the foregoing was concluded at
10 4:44 p.m.)

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